

SSHRC-ESRC Knowledge Synthesis Grant

Understanding the Future of Canada-U.K. Trade Relationships

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

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November 2018

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Executive Summary

Following the *Brexit* vote in 2016, Prime Minister Theresa May stated that its government hoped to reach a new trade agreement with Canada rapidly, to be modeled after the Canada-EU “Comprehensive Economic and Trade Agreement” (CETA), of which the U.K. will be excluded once it leaves the European Union. This agreement was the first Canadian free trade deal for which Canadian provinces were directly involved at every stage of negotiations. In addition to trade talks having been initiated in good part by Quebec’s Premier (2003-2012) Jean Charest, provinces were deeply engaged, from the onset, in formulating the Canadian negotiating mandate itself. By contrast, it remains unclear what role the U.K.’s devolved regions (Scotland, Northern Ireland, Wales) may have in influencing, negotiating, or implementing such a future trade deal with Canada. Whilst there were mechanisms for the involvement of devolved regions in making European policy, the U.K. has no clear constitutional principles or doctrines as to the roles they should play in elaborating trade policy more generally. Moreover, the asymmetric nature of the U.K.’s devolution system complicates the involvement of the devolved governments in trade negotiations.

Since the U.K. and Canada do not function according to the same constitutional principles, a comparative analysis of the roles subnational governments and agencies have played and could play in such trade negotiations was in order. It offers important insights about the advantages, practicalities and conflicts that can emerge from the multi-level governance of trade policy, and about its implications for devolved responsibilities indirectly linked to trade. It also provides insights as to how a bilateral Canada-U.K. trade negotiation could produce new and innovative approaches with regards to the involvement of substate actors. The goals of this knowledge synthesis, accordingly, were twofold. First, to allow for a better understanding of the differences between the two models, of their theoretical and practical justifications, of their strengths and weaknesses, and of the ways in which they could be reconciled in the wake of bilateral negotiations. Second, to draw lessons as to how the participation of provinces, devolved regions, and subnational agencies in future trade negotiations between Canada and the U.K. might unfold, but perhaps most importantly as to how it could be improved and maximized, within the realm of possibility, in both cases.

The following report contains three main sections. The first is devoted to the Canadian case, and explores the evolving prerogatives of provinces – with a specific focus on Quebec and Ontario – in international trade negotiations and treaty implementation by comparing three recent agreements: the *Comprehensive Economic and Trade Agreement* between Canada and the European Union, the *Comprehensive and Progressive Agreement for Trans-Pacific Partnership* of which Canada is a signatory along with ten other Asia-Pacific countries, and finally (most importantly) the *North American Free Trade Agreement* and its successor, the *United States-Mexico-Canada Agreement*. Its main findings are that during NAFTA renegotiations, the level of cooperation between federal and provincial negotiators fell somewhere in between that seen during CETA and 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 during CETA on the one hand, and NAFTA and the TPP on the other could be explained by the fact that the European Union insisted on provincial involvement in the CETA negotiation. The potential extent of provincial involvement in the event of Canada-U.K. negotiations, therefore, remains unclear and would depend on the issues discussed.

The second section is devoted to the U.K. case, and explores the evolving and potential prerogatives of devolved administrations – with a specific focus on Scotland – in the elaboration of post-*Brexit* British trade policy, and in the negotiation and implementation of future trade agreements. Its main findings are that, first, the U.K.’s existing processes and arrangements for scrutinising trade deals as they are developed, and ratifying trade deals, are inadequate. The U.K.’s devolved administrations and legislatures have no formal role in this process, and it remains unclear the extent to which, after Brexit, the U.K. Government is genuinely committed to enabling stakeholders, including devolved parliaments and legislatures, to influence as opposed to simply be informed about, the development of trade agreements. It is clear however that if the devolved institutions are to have real, meaningful involvement in the development and scrutiny of future trade deals, this will require a step-change in the way in which inter-governmental relationships work. With the U.K. Government theoretically in a position to begin negotiating trade deals following the exit from the EU at the end of March 2019, there is an urgent need to progress these issues if further constitutional crises are to be avoided.

The third section of the report is devoted to the cases of subnational trade and investment promotion organizations (TIPOs), both in Canada and the U.K. – with a specific focus on Quebec’s and Scotland’s –, and explores their forms, the scope of their activities, and their efficiency in promoting exports and attracting foreign investment. Its main findings are that subnational trade and investment promotion networks are particularly well-developed in both Canada and the U.K. (especially in Quebec and Scotland); that all major provinces and devolved administrations are already represented, respectively, in the U.K. and Canada through trade and investment offices; that TIPOs are highly useful for market information and networking purposes; that they have significant positive impacts on trade and investment flows, principally in times of economic uncertainty and instability, or between regions/countries who are not yet important trade partners or part of a free-trade zone; and therefore that they would be best placed to inform governments and trade negotiators of the market gaps and/or opportunities that a future trade agreement between Canada and the U.K. should address in priority.

The conclusion of the report, finally, lists six main recommendations which, based on the findings of the preceding sections, could inform policymakers, trade negotiators, and stakeholders with regards to the involvement of provincial/regional governments and agencies in the even of a future Canada-U.K. trade negotiation and agreement. The recommendations are the following:

- 1) The Canadian [Council of the Federation](#) should hold a meeting or series of meetings devoted to discussions on the roles and prerogatives of provinces and territories in international trade negotiations, and ideally agree on a set of basic principles to be presented to the federal government, aimed at the harmonization of practices for future trade talks.
- 2) In the event of a post-Brexit Canada-UK trade negotiation, the Canadian provinces and the UK’s devolved regions should meet, discuss and ideally agree on a set of common demands regarding their involvement in negotiations themselves, and regarding issues which, in both countries, are of provincial or regional responsibility.
- 3) As part of a general strengthening of the UK’s intergovernmental relations system after Brexit, a Joint Ministerial Committee on Trade (JMC Trade) should be established which would enable the devolved administrations to inform the UK’s negotiating position, and

thereby ensure that devolved interests are reflected in trade negotiations. As part of this, a key role of the JMC(Trade) could be to share independent advice – provided to both central and devolved governments – on the potential implications for devolved competencies of different trade deals.

4) 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 particular interests or expertise. This way, the scope for fundamental disagreements as to the finalisation of trade agreements would be less likely as an outcome.

5) Scrutiny arrangements need to be strengthened at both the UK and devolved parliamentary levels following exit from the EU, in order that there is 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.

6) In the case of a Canada-UK trade negotiation, 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, in order to ensure that nationally-established priorities are consistent with the needs of provincial/regional markets and of (smaller) exporters and investors.

1. Introduction

1.1. Background

The issue of the roles and influence of substate actors (provinces, devolved administrations, regional trade and investment promotion agencies) in international trade negotiations leads to a fundamental question in political science (Dahl, 1961): who governs? How are decisions concerning commercial treaties taken and implemented when the respective fields of endeavor of substate actors, like the Canadian provinces or the devolved regions of the U.K., are implicated? What should the roles of substate actors in the conclusion (i.e. negotiation, signature, and ratification) and the implementation of trade agreements be when such treaties affect their respective competences? At the theoretical level, two schools of thought distinguish federalism experts on this question: the centralization school and the multi-level governance school.

One of the first theoreticians of federalism, Kenneth C. Wheare, maintained that the monopoly over international (trade) relations is a “minimal” power for any federal government, without which negative consequences for “national interests” and the international system can emerge (1967). For others, centralization of power over foreign affairs is also required by international law, because a centralized political system is a necessary condition for a state to fulfill its assigned roles in commercial regulation (Badie & Smouts, 1999; Davis 1967). Without the existence of a central government that has a plenary authority in relation to trade negotiation and the enforcement of international obligations domestically, interstate relations can be compromised (Shaw, 2008). Granting powers of co-decision risks paralyzing the state’s foreign affairs because every player then has a veto power, resulting in harm to the state’s influence and image in the international arena. Fritz Scharpf (1988) called this the “joint-decision trap.”

For proponents of the multi-level governance approach conversely, the evolution of trade negotiations has rendered the centralization approach obsolete (Paquin & Lequesne 2017; Paquin 2013; Bache & Flinders 2004; Hocking 1993; Hooghe & Marks 2003; Jeffery 2000). Subnational governments often play important roles, even if restricted to “commercial paradiplomacy” or the implementation of international agreements (Rioux 2015; Paquin 2013). In addition, giving a monopoly over trade negotiation in a federal or devolved setting can disturb the distribution of powers between orders of government, tipping the balance in favor of the center. In practice, trade negotiations are no longer restricted to areas under the sole jurisdiction of central governments, like tariffs. All spheres and levels of government activity are now affected, as free trade negotiations (and “renegotiations”, as the cases of NAFTA and *Brexit* illustrate) deal with government procurement, business subsidies, non-tariff barriers, agriculture, services, labor mobility and standards, environmental protection, education, public health, cultural diversity, etc. Moreover, the commercial interests of provinces or devolved regions can sometimes diverge from those of their respective country.

Substate governments in Canada and the U.K. – Quebec and Scotland prime among them – are thus increasingly aware that their capacity for policy-making in their own areas of responsibility are now at stake in international trade negotiations. Accordingly, provinces are increasingly important players in Canadian trade negotiations (Kukucha 2016, 2013, 2008, 2005; Ouellet & Beaumier 2016; VanDuzer 2013; Fafard & Leblond 2013; Paquin 2014, 2013, 2010, 2006). Although the Canadian government holds, under the Constitution, full powers over international

trade and treaties, Grace Skogstad has gone so far as to describe the Canadian process of trade negotiations as a “de facto shared jurisdiction” (2012: 204).

Although the Canadian government has responsibility for international trade and can negotiate in areas of exclusive provincial jurisdiction, it cannot compel the provinces to implement ratified trade agreements (Skogstad 2012; VanDuzer 2013; Kukucha 2013, 2008; Cyr 2009; Paquin 2013, 2010, 2006). Since commercial treaties do not have a direct effect on domestic law, they must be implemented at the federal and provincial levels. The commercial treaty-making process in Canada, when it affects provincial jurisdictions, thus involves two basic steps that are not necessarily sequential: the conclusion of a treaty (i.e. negotiation, signature, and ratification), and its implementation. The federal executive has a monopoly on the first step, but in Canada as in the U.K. there is a need for legislative intervention at the appropriate level to incorporate treaties into domestic law (Barnett 2012; De Mestral and Fox-Decent 2008; Scherrer 2000).

That means that Canadian provinces would have to adopt legislation to implement the results of a future Canada-U.K. trade negotiation. In addition, Canadian provinces would likely play a much more direct role in trade negotiations themselves, as compared with the U.K.’s devolved administrations. Currently, “not only is the role of devolved administrations with respect to trade agreements limited to the implementation of obligations, but their power to implement trade obligations which fall within the scope of devolved matters is in fact severely limited. Early indications suggest, therefore, that the U.K.’s future trade policy is likely to be extremely centralised and designed to exclude devolved administrations [...] One of the reasons why an effective system of inter-governmental cooperation was necessary in Canada is because Canadian provinces have the exclusive competence to implement international obligations falling within their remit. In the U.K., devolved administrations do not enjoy the same level of influence, with the central government maintaining the power to step in whenever a devolved administration adopts a measure that is incompatible with an international obligation” (Melo Araujo 2017b).

The British Government has made a series of commitments that the U.K.’s devolved governments will be involved in the process of developing and agreeing future U.K. trade agreements post-Brexit. It remains unclear however, what this commitment will mean in practice. The Scottish Government and Scottish Parliament have argued that the devolved institutions should play an integrated role in the development of future trade deals, with an ability to influence and co-determine all stages of the development of such deals. Currently however there are no clear principles or doctrine as to the roles that devolved nations should play in making trade policy. Moreover, existing arrangements for intergovernmental relationships are recognised as being weak, whilst the U.K. and Scottish Governments are in ongoing dispute about the way in which EU policy-making competences are being transposed into U.K. legislation. This dispute is of course exacerbated by the fact that Scotland voted to remain within the EU, which has led the Scottish Government to argue the case for Scotland to have a differentiated withdrawal settlement and to threaten to call a second independence referendum.

As the U.K.’s *EU Withdrawal Act 2018* and *Trade Bill* demonstrate, it remains unclear what role the devolved governments and parliaments may have in influencing, negotiating, or implementing future trade agreements. Indeed, as part of the EU’s Customs Union the U.K. has not negotiated any free trade deals unilaterally since the Scottish Parliament was established in 1999. But whilst treaty-making and free trade agreements are clearly matters reserved to the U.K.

Government, trade agreements are likely to impinge on devolved jurisdictions. The *EU Withdrawal Act 2018* has caused friction between the U.K. and devolved governments given how it proposes to return certain areas of legislative competence currently exercised at the EU level to Westminster rather than to regional governments, at least until “Common Frameworks” have been established to coordinate U.K.-wide policy in areas such as agriculture and the environment. *But it remains unclear how these Common Frameworks will be established and agreed upon.*

Overlaying this uncertainty, two relevant observations are that a) even at Westminster, the provisions for scrutiny and ratification of U.K. trade deals are somewhat ambiguous and often viewed as inadequate; and b) the asymmetric nature of U.K. devolution complicates the involvement of the devolved governments in trade negotiations, as it renders veto powers unsatisfactory even if without veto powers it is uncertain how the devolved regions can exercise meaningful influence.

During the CETA negotiations between Canada and the EU by contrast, the provinces were involved in the critical stages of drafting the joint report and formulating the negotiating mandate. The provinces were also consulted about issues related to their fields of expertise on technical barriers to trade, regulatory cooperation, investment, dispute settlement mechanisms, cross-border trade in services, recognition of professional qualifications, public procurement, public monopolies and state corporations, sustainable development (labor and environment), wine and spirits, and cooperation (raw materials and innovation, research in science and technology). Quebec presented over 150 position papers or strategic position briefs (Johnson et al. 2015: 30) and indeed greatly influenced negotiations on certification issues, labor mobility, and cultural exemptions. Without a clear commitment from Quebec and other important provinces (i.e. Ontario, Alberta and British Columbia), the chances of concluding this agreement would have been very low.

Although the Canadian case is, even among federations, somewhat of an outlier when it comes to the influence of provinces in international trade negotiations, there is thus a lot to be learned from this experience, particularly perhaps in the perspective of a reform of the U.K.’s intergovernmental collaboration mechanisms. *Since the U.K. and Canada do not function according to the same constitutional principles, a comparative analysis of the roles subnational governments will (and/or should) play in such negotiations was in order.* For one thing, it offers important insights about the advantages, practicalities and conflicts that can emerge both administratively and politically from the multi-level governance of trade policy. In addition, it provides insights as to how a bilateral Canada-U.K. trade negotiation could produce new and innovative approaches with regards to the involvement of substate actors, but also insights as to the strategies, demands and interests substate actors and provinces/regions themselves could put forward in the event of such negotiations.

As can be seen in Table 1 indeed, the commercial interests of Canadian provinces and British devolved regions could differ in significant ways in the event of Canada-U.K. trade negotiations. Trade relations with the U.K., for instance, are clearly much more important for a province like Ontario than for other major provinces in Canada, perhaps to the exception of Quebec. While the U.K. is a very important international export partner for Ontario’s mining sector (and an important partner for Toronto’s financial sector), it is a crucial import (and to a lesser extent, export) partner for Quebec, and for its aerospace industry in particular. Alberta and British Columbia, in turn, are much less dependent on the U.K. as a trade partner, although their exchanges

are not insignificant and would probably gain from a new trade deal between Canada and the U.K. In the case of British devolved regions, Northern Ireland would most probably benefit the most from trade negotiations with Canada: its aerospace industry, most notably, is substantially integrated with Canada's, and with Quebec's in particular. Scotland and Wales, by contrast, are less reliant on Canadian markets although Scottish exports to and Welsh imports from Canada are non-negligible.

Table 1. Canada-U.K. Trade Patterns: Major Provinces & Devolved Regions (2016-2017)

	Exports to U.K./Canada	Imports from U.K./Canada
Quebecⁱ	<ul style="list-style-type: none"> - \$CA 1.35G (5th international partner, 2nd European partner) - 8% of total Canadian exports - 55% high-tech products 	<ul style="list-style-type: none"> - \$CA 3.4G (5th international partner, 2nd European partner) - 42% of total Canadian imports - 45% high-tech products
Ontarioⁱⁱ	<ul style="list-style-type: none"> - \$CA 14.7G (2nd international partner, 6.3% of Ontario's exports) - 85% of total Canadian exports - 90% + metals (gold, nickel, scrap) 	<ul style="list-style-type: none"> - \$CA 2.9G (2nd international partner, 1% of Ontario's imports) - 33% of total Canadian imports - Mostly autos & biochemicals
Albertaⁱⁱⁱ	<ul style="list-style-type: none"> - \$CA 120M - 0.8% of total Canadian exports - 50% cereals & machinery 	<ul style="list-style-type: none"> - \$CA 400M - 4.5% of total Canadian imports
British Columbia^{iv}	<ul style="list-style-type: none"> - \$CA 412M (7th international partner) - 2.5% of total Canadian exports - 75%+ forestry products; \$27M high-tech products 	<ul style="list-style-type: none"> - \$CA 440M - 5% of total Canadian imports - \$112M high-tech products
Scotland^v	<ul style="list-style-type: none"> - £610 M (15th international partner, 2% of total Scottish international exports) - 12% of total U.K. exports (3/12 U.K. region exporting most to Canada) - Mostly agri-food, machinery, and transport equipment 	<ul style="list-style-type: none"> - £233 M - 5% of total U.K. imports from Canada
Wales^{vi}	<ul style="list-style-type: none"> - £360 M (2.2% of total Welsh international exports) - 7.5% of total U.K. exports (6/12 U.K. region exporting most to Canada) - Mostly raw resources, petroleum, fuels & lubricants 	<ul style="list-style-type: none"> - £439 M - 9% of total U.K. imports from Canada
Northern Ireland^{vii}	<ul style="list-style-type: none"> - £482 M (5.5% of total Northern Irish international exports) - 10% of total U.K. exports (4/12 U.K. region exporting most to Canada) - 90% machinery & transport equipment (aerospace) 	<ul style="list-style-type: none"> - £49M - 1% of total U.K. imports from Canada

1.2. Objectives

The goals of this knowledge synthesis project were twofold. First, we intended to conduct a thorough review of the recent literature (both theoretical and empirical) on subnational units' roles and prerogatives in international trade negotiations and commercial diplomacy, with a specific focus on the Canadian (Quebec/Ontario) and British (Scotland) cases. This allowed for a better understanding of the differences between the two models, of their theoretical and practical justifications, of their strengths and weaknesses, and of the ways in which they could be reconciled in the wake of bilateral negotiations. Secondly, we hoped to draw lessons as to how the participation of provinces, devolved regions, and their agencies in future trade negotiations between Canada and the U.K. might unfold, but perhaps most importantly as to how it could be improved and maximized, within the realm of possibility, in both cases.

More precisely, the aim of this collaborative project was to look at the experience of (notably) the recent NAFTA renegotiation and CETA negotiations between Canada and the EU, with a particular focus on the ways in which Canadian provinces were involved in critical stages of drafting joint reports and formulating negotiating mandates, and on how the provinces were consulted on technical barriers to trade, regulatory cooperation, investment, dispute settlement mechanisms, and cross-border trade in services. This review will thus help to develop advice and guidelines with respect to the potential engagement of devolved administrations in future U.K. trade deals, such as with Canada, and with respect to the potential engagement of provinces in future Canadian trade deals, such as with the U.K.

Our synthesis' contributions and potential impact, accordingly, could be twofold: on the one hand, our report will serve as a comprehensive guide for academics, experts, policymakers and the general public, comparing Canadian and British approaches and practices in these regards. On the other hand, thanks to collaborations with stakeholders and policymakers, we hope to be able both to inform and to equip such stakeholders and policymakers with some of the tools necessary to exert leadership in evidence-based decision-making, relating to the following themes and questions surrounding the multi-level governance of trade policy and commercial relations:

Subthemes a) *How can bilateral trade agendas be elaborated as comprehensive, multi-level approaches (from policy direction to negotiations, and to the implementation of signed agreements)? How will any new framework for U.K.-Canada trade relationships be managed and governed, both at the federal/central and at provincial/devolved levels?*

Subthemes b) *What structures, mechanisms and tools are needed to foster the engagement of provinces and devolved administrations to advance international trade? What cooperative skillsets and capacities do national and subnational governments need to advance international trade negotiations and trade relations?*

Subthemes c) *How can trade negotiations and agreements such as the CETA or NAFTA/USMCA serve as models to shape post-Brexit Canada-U.K. trade relationships, notably with regards to the interests, roles and prerogatives of subnational governments? What are the key strengths and weaknesses of CETA and/or NAFTA/USMCA in these regards, and how can Canada, the U.K. and subnational governments learn from those to maximize the effectiveness of future trade negotiations and relations?*

1.3. Methods

The approach used for this research was mostly qualitative, but part of the work also included data analysis on aggregate Canada-U.K. trade, as well as on Canadian provinces' and British regions' trade relationships with, respectively, the U.K. and Canada. This allowed us, from the onset, to draw a clearer picture of the relative importance and future potential of such relationships for the two countries and their subnational units, with a particular focus on Quebec, Ontario and Scotland. For example, a good grasp of the provinces' and regions' industrial sectors likely to be most affected by a potential Canada-U.K. trade deal allowed for a better understanding of the positions they might take with regards to such a deal, of the strategies they might pursue to influence negotiations or treaty implementation, and of the broader roles they might want to play in those. Otherwise, the main methods used were literature reviews and elite interviews. In the first case, we reviewed both the existing theoretical literature on federalism, devolution and international trade, and the empirical work that has been done so far on the actual roles and prerogatives of the Canadian provinces and British regions in commercial negotiations, trade promotion, and international affairs more generally. Our interviews complemented the literature reviews with insights from experienced stakeholders and practitioners. In this case, we used information from both relevant past interviews conducted by members of our team, and new interviews with our collaborators.

* * *

2. Federalism and trade negotiation in Canada: a look at Quebec and Ontario

2.1. Trade negotiation in Canada

In practice, a typical trade negotiation in Canada is led by the federal government, even when it deals with an area that falls under exclusively provincial jurisdiction. However, there are many precedents where provincial governments, including the Government of Québec, have participated in discussions. Intergovernmental negotiations will take place between senior officials and sometimes between ministers (De Mestral and Fox-Decent 2008: 592). However, there is no comprehensive framework agreement for federal-provincial consultations related to international negotiations, and very little consistency in approaches (Paquin 2017a, 2006; VanDuzer 2013, Mestral 2005).

The treaty-making process in Canada, when it affects areas of provincial jurisdiction, involves two basic steps that are not necessarily sequential: the conclusion of a treaty (i.e. negotiation, signature and ratification) and its implementation. The federal executive has a monopoly on the first step. The second step of adopting the legislative measures required to implement a treaty falls to the legislature at either federal or provincial level. In Canada, legislative intervention at the appropriate level is required to incorporate treaties into domestic law (Paquin and Chaloux, 2016, Paquin 2006; De Mestral and Fox-Decent 2008).

In this second step the treaty must be implemented, into domestic law through a law of incorporation or a change of regulation at the competent level (Barnett 2012; Scherrer 2000). If the law is already compatible with the treaty, there is no need for new legislation. This is often the case, as provincial and federal laws are often stricter than international standards. When domestic law is incompatible with the treaty, an implementing law is needed and can take various forms,

ranging from a legislative text appended to the treaty that gives it the force of law, to a distinct law that more or less faithfully reproduces the provisions of the treaty. De Mestral and Fox-Decent have identified more than 13 ways to integrate treaties into domestic law at federal level (De Mestral and Fox-Decent 2008: 617-622). In Canada, a treaty does not automatically supersede existing laws. Judges rely on Canadian laws and not treaties to render judgments, though some judgments refer to pertinent treaties (De Mestral and Fox-Decent 2008: 578).

In the case of a treaty that touches on Québec jurisdictions (Quebec differs from Ontario and other provinces where procedures are simpler and an executive decree or regulatory change is generally sufficient), Québec Parliament must approve the treaty before government gives its assent. An international commitment must be approved by Québec Parliament when it is described as "important", meaning it requires the adoption of a law, the drafting of a regulation, the imposition of a tax or government acceptance of a financial obligation, or if it concerns human rights or international trade (LeDuc, 2009: 550-551). This step is not necessary at the federal level or in any other province. Precedents include the Softwood Lumber Agreement between Canada and the United States (Turp 2016: 23). It should be noted that the debate and the vote in Parliament occur after the Government of Canada has signed the treaty. Québec parliamentarians therefore have few means of influencing the content of the treaty at this stage: they can only adopt or reject it (Turp 2016: 24-25).

In the event that Québec Parliament refuses to give its approval, the executive could argue that the treaty is urgent and pass a decree. However, it would be difficult to adopt implementing legislation in this context. Thus, Québec's only recourse is to refuse to implement a treaty in areas under its jurisdiction.

In the event that Québec decides not to approve and thereby fails to comply with an international agreement ratified by Canada, the federal government would have to defend itself before a panel or Appellate Body of the World Trade Organization (WTO), an arbitration tribunal or other International Court competent to judge the matter. Such an eventuality is not merely theoretical since Canada has already had to defend several measures taken by provinces. For example, from 2010 to 2013, Canada had to defend Ontario's Green Energy Program before the dispute settlement body of the WTO following a complaint by Japan and the European Union (Ouellet and Beaumier, 2016: 76).

There are also precedents for Canada having to compensate companies because of measures taken by the provinces. For example, measures taken by Newfoundland and Labrador obliged the Government of Canada to pay Abitibi Bowater (CAN) \$130 million (Lévesque 2015). As a result of this incident, the Prime Minister of Canada asked Global Affairs Canada to develop a mechanism that would make provinces responsible for their own actions (Côté 2015). A majority of provinces, including Ontario, are opposed to this idea, though the Government of Québec is in favour.

This situation has created many problems. According to De Mestral and Fox-Decent: "From the federal perspective there are many frustrations and pitfalls. The federal government can commit Canada to a treaty, but it cannot guarantee that the treaty will be properly implemented if the subject matter falls within provincial jurisdiction. This fact can be a serious impediment to the rapid consolidation of a treaty relationship with other states" (De Mestral and Fox-Decent 2008: 644). Given these difficulties, the federal government must be careful when it

commits Canada on the international stage, because it risks being undermined by provincial actions.

Various strategies have been used historically to avoid such a situation. The first is to limit international negotiations to areas of federal competence. During the negotiation of the Canada-Colombia Free Trade Agreement, the Government of Canada excluded from these treaties all provincial measures that predated the conclusion of the Canada-Colombia Agreement in the areas of services and investment (VanDuzer 2013). Another strategy is to use federal clauses to limit the scope of international treaties. Such clauses are included in the GATT and NAFTA agreements, for example.

The other strategy is to create intergovernmental mechanisms that enable provinces to collaborate in the negotiating process with the hope that provinces will then fully implement Canada's trade agreements. As the federal government became increasingly aware of its limitations through the 1970s and 1980s, it developed a number of mechanisms for consultation between federal and provincial governments. For trade negotiations, the most recent intergovernmental mechanism is known as the C-Trade Forums (Kukucha 2016; Paquin 2013, 2006).

2.2. The renegotiation of the North American Free Trade Agreement (NAFTA)

In order to make their positions clear and increase their influence in negotiations, Québec and Ontario retained the services of experienced advisors and appointed chief negotiators for the NAFTA renegotiations. Ontario appointed Hugo Cameron, a high-ranking civil servant with experience at the WTO and Department of Foreign Affairs as “Ontario’s Chief Negotiator for NAFTA”, while Québec opted for a strategy used during CETA negotiations and engaged a former political figure who is “politically connected”^{viii}. For CETA, Pierre Marc Johnson, former prime minister of Québec was selected; for the softwood lumber dispute, former Canadian ambassador in Washington, Raymond Chrétien was chosen; for the NAFTA renegotiation, former finance minister under Jean Charest, Raymond Bachand, was named negotiator in chief in July 2017. Mr. Bachand is a “strategic advisor” at the Norton Rose Fulbright consulting firm.

This appointment of chief negotiators is not a new strategy. During the free trade negotiation with the United States in the late 1980s, the Ontario government hired Bob Latimer, a former federal official with the Ministry of Foreign Affairs and International Trade, while the Québec government recruited Jake Warren, who had served as Canadian negotiator during the Tokyo Round (Hart *et al.* 1994: 139). In preparation for the NAFTA renegotiation, the budgets for teams in Ontario and Québec were increased to enable them to expand and strengthen their resources^{ix}.

At the beginning of the negotiation, both provinces identified offensive and defensive interest. While the particulars of their cabinet mandates for the NAFTA renegotiations remain confidential, the Ontario and Québec negotiating teams were asked to modernize the 24-year-old agreement^x. As such, updates to chapters reflecting the modern economy, like digital trade or labour mobility were among their offensive interests.

Despite the objective of enhancing trade and interconnectedness, Québec and Ontario governments were unwilling to revisit well-established chapters. Accordingly, rules of origins for Ontario, supply management and the preservation of the dispute settlement provision (Chapter 19 in NAFTA), were on both Québec and Ontario's defensive list.

At the start of the negotiation, there was a concern that the United States might be tempted to ask for the same concessions Canada had made in the context of the TPP (later the CPTPP), in particular regarding supply management. The Canadian government had promised financial compensation at the time of the TPP negotiation (and also during CETA before that) to encourage provinces to accept the modifications in supply management and agriculture requested by negotiating partners. In Québec and Ontario, the preservation of supply management was on the defensive list from the outset, and tariffs on steel and aluminum became important issues during negotiations^{xi}.

Québec's offensive interests were similar to those presented during CETA negotiations. The chapter on temporary entry of business people was considered essential, to augment the pool of available experts in a number of sectors, such as information technology. Similarly, the procurement chapter was considered an offensive interest, as it had been with CETA. The modernisation of the agreement and (phyto)sanitary norms were another offensive interest for the Québec government^{xii}. The cultural exemption was another priority for the Québec delegation, though it was in reality rarely discussed in negotiations^{xiii}. The cultural exemption was preserved in the final text of the USMCA. Finally, electronic commerce was also a defensive interest for the Québec delegation.

When the United States requested that NAFTA be renegotiated, Canada surprised many when it announced its progressive trade agenda^{xiv}. The United States were taken aback by Canada's request that progressive chapters now be included in the negotiations to address gender equality and women's rights, recognition of First Nations and indigenous communities, labour rights, the environment and climate change (Lilly, 2018). Viewed by some as simply a negotiating tactic in response to the strength of the United States, delegations from Québec and Ontario agreed that these progressive chapters, while interesting, were primarily geared to win electoral support, and were possibly not as important as the previously mentioned offensive and defensive interests^{xv}.

The question of how this progressive agenda could affect provincial competences is also relevant. The government of Canada defines its new progressive strategy as promoting an inclusive and progressive approach that benefits the middle class, gender equality, indigenous communities, environmental sustainability and small and medium-sized enterprises (Lilly 2018). Many of these are in areas of provincial jurisdiction or stand to significantly impact provincial public policy. Some, such as labour rights, are exclusively provincial competences, while others, such as the environment, are shared. During negotiations, the provincial negotiators were cautious about the new strategy and did not express overt concern about this encroachment on their field of competence. Ontario expressed its trust in the federal administration, welcoming the "Team Canada" approach in NAFTA renegotiations.^{xvi} The Québec government had expressed doubts earlier with regard to the inclusion of indigenous rights in environmental issues (Gerbet, 2018).

The proposed chapter on promotion of the rights of indigenous communities appeared vague during the negotiation. Though an area of federal competence, it nevertheless has an impact on provinces. Its inclusion in international trade agreements is a new phenomenon (though it appears in a number of other specific agreements), and such a sensitive constitutional issue could complicate discussions. The eventual compromise saw the inclusion of a provision protecting indigenous rights in the general exceptions, as well as references to these protections in other parts of the USMCA. The general exception provides parties the possibility of meeting their legal

obligations to indigenous peoples without breaching existing investment protections. Representatives from Ontario and Québec do not see the end result as being very important, though Québec negotiators question the federal strategy^{xvii}.

Ultimately, the progressive agenda was not entirely integrated into the USMCA, though provisions on gender and indigenous rights appear in various chapters. The chapters on labour and the environment (Chapters 23 and 24, respectively) are much more important^{xviii}. Relegated to a side agreement under the earlier NAFTA, the new chapters include strong commitments and reflect the latest progressive standards found in new generation agreements. This inclusion may, according to an Ontario representative, have been adopted mostly in anticipation of a majority Democrat congress in the United States following mid-term elections, to ensure that they would support the agreement for the renewal of the Trade Promotion Authority and implementation in the United States.^{xix}

2.3. Cooperation between federal and provincial levels

During NAFTA renegotiations, the level of cooperation between federal and provincial negotiators fell somewhere in between that seen during CETA and TPP negotiations (see Paquin 2017a, Kukucha 2016). During the CETA negotiations, the provinces played an important role at virtually all stages of negotiations. Although they were not consulted on the selection of the chief Canadian negotiator, Steve Verheul, they were involved in the critical stages of drafting the joint report and formulating the negotiating mandate. During preparation, the provinces were also consulted about issues related to their fields of expertise. In addition, they had access to the negotiation documents and were extensively consulted throughout. Québec, for example, presented over 150 position papers or strategic position briefs^{xx}. In addition, more "than 275 meetings between federal negotiators and their provincial and territorial counterparts, many meetings involving provinces and territories with common interests, and bilateral meetings in camera between a province or territory and federal negotiators" were held (Johnson, Muzzi and Bastien 2015: 30). In the case of Ontario, interactions with the federal government regarding provincial positions were solely verbal for reasons of confidentiality^{xxi}. However, on occasion, Ontario's chief negotiator sent letters to his federal counterpart outlining specific areas of interest or concern to the province. No formal record of the number of interactions exists, but one senior official gives a rough estimate of around 20. These were supplemented by hundreds of emails at staff level, which would have addressed more technical and less confidential issues^{xxii}. The provinces did not have access to negotiation of all areas. They participated actively in discussions on technical barriers to trade, regulatory cooperation, investment (including investor-state dispute settlement mechanisms), cross-border trade in services, mutual recognition of professional qualifications, public procurement, public monopolies and state corporations, sustainable development (labour and environment), wine and spirits, and cooperation (raw materials and innovation, and research in science and technology).

Provinces were largely excluded from discussions related to agriculture, customs procedures and trade facilitation (rules of origin and procedures of origin), sanitary and phytosanitary measures, trade remedies, subsidies, issues relating to maritime transport and temporary records, financial services, telecommunications, electronic commerce, intellectual property (geographical and patent names), competition policy, institutional issues, and bilateral cooperation on biotechnology (Paquin 2013).

During CETA negotiations, the Government of Canada also concluded an agreement with the United States on the issue of "Buy America". It also initiated trade talks with India, concluded a trade agreement with South Korea and joined the TPP negotiations (which later became the CPTPP). Provincial participation was minimal in the "Buy America" agreement with the United States. The Indian government refused to allow federated States to be involved in negotiations, likely for domestic political reasons. As a senior federal official stated, "the conversation on this topic was short with the Indians"^{xxiii}. A similar situation arose in negotiations with South Korea. In each case, C-Trade meetings were the federal-provincial mechanism used to keep provinces informed of the progress of discussions (Paquin, 2017, Kukucha 2016).

Representatives of Ontario and Québec disagree in their verdicts on the overall process for NAFTA negotiations. According to Ontario officials, cooperation between the federal and provincial levels was the opposite of the last negotiations (TPP) and reverted to the model instituted with the CETA negotiations. Representatives from the government of Québec consider the NAFTA process closer that experienced in the TPP+: federal-provincial collaboration was excellent on issues such as alcoholic beverages and state owned enterprises, however, the overall quality of the relationship depended, according to one Québec official, on the personality and professionalism of the individual civil servant and was not related to the intergovernmental relations^{xxiv}.

Towards the end of negotiations, the relationship between provincial and federal negotiators changed. Following Round 7 in April 2018, negotiations were taken on by higher level officials, and discussions were often held directly between Minister Freeland and Ambassador Lighthizer. In August and September 2018, all meetings took place in Washington. With the looming deadline of September 30 to deposit the text to Congress so that it would be approved in time for signature by the outgoing Mexican president, the pace of negotiations between Canada and the United States intensified. There was thus much less opportunity and time for provinces to provide input and updates. The provinces nevertheless sent representatives to Washington, and they were provided with information when time permitted.

According to senior representatives from Québec and Ontario, the federal level remained in charge of final decisions^{xxv}, and all final arbitration and decisions on delicate issues were decided without input from the provinces^{xxvi}. As communication was ultimately between chief negotiators, provincial delegations received few updates in the final weeks^{xxvii}. According to a Québec senior official, the last few weeks of the negotiations were a "disaster." Final arbitration was decided in the middle of Québec's elections, where the issue of supply management was central. Communication between Québec and the federal negotiation team was minimal^{xxviii}.

Québec representatives were, by the end of negotiations, very critical of the federal approach. "The strategy didn't work. At some point, we should ask ourselves why", said one Québec representative^{xxix}. Among the elements that contributed to the perceived failure of the federal strategy were excessive demands of the progressive agenda that were obviously unacceptable to the United States government, but also the complaint Canada lodged with the World Trade Organization in December 2017 accusing the United States of breaking international trade rules. According to one Québec government official, after this complaint civil servants from the United States let Canada down^{xxx}. Some government officials feel that Québec is paying the price for the new deals and the federal strategy. The major concession over supply management affects Québec deeply, as do tariffs on aluminum.

Ontario's team of negotiators are more positive about the overall process, considering that the high level of provincial involvement may be attributed to the fact that Steve Verheul, chief negotiator for Canada in CETA, was also chief negotiator for NAFTA renegotiations. He is therefore familiar with the new federal-provincial relationship established with CETA. However, as much as this relationship is seen as essential by the provinces, it is not always treated with the same level of importance by federal teams. In addition, the difference between federal-provincial relations during CETA and NAFTA on the one hand, and the TPP on the other, could be explained by the fact that the European Union insisted on provincial involvement in the CETA negotiation since their most important offensive interest was public procurement of provincial and municipal governments in Canada (Paquin, 2013).

According to Québec negotiators, a representative of Québec's trade policy department was present at each round of NAFTA renegotiations to meet with 1) federal negotiators to explain Québec's interests; 2) business leaders from various sectors (agriculture, pharmaceuticals, etc.); and 3) representatives of other provinces in order to work with them on specific issues. Even though no formal rounds of negotiation were held after March 2018, the team from Québec remained in regular contact with the federal government via phone calls and meetings. Until the very end, the Québec delegation also had a representative in Washington. The situation was globally the same for Ontario^{xxxix}.

Frequent consultations between federal and provincial teams were held in special meetings focused on the renegotiation, rather than at the usual C-Trade meetings. The provinces were also invited to participate in strategy meetings prior to negotiation rounds, as well as monthly debriefing sessions. Provinces with important delegations and interests were sometimes invited to speak to the chapter negotiators, particularly during the round held in Montreal, where approximately 12 such meetings were held. Finally, discussions were also held with the major actors in specific fields of interests, such as the Artists' Union (Union des artistes), the Union of Agricultural Producers (Union des producteurs agricoles) as well as labour unions.

The level of trust between federal and provincial teams appears to have been high, with the “Team Canada” approach praised by the Ontario negotiating team and, early on, by the Québec team^{xxxix}. The provinces were given an opportunity to participate in discussions affecting all issues in their area of competence. Texts were circulated. During negotiating rounds, the provinces could attend a nightly briefing on the day's progress. While CETA's negotiations are often described as remarkable in their inclusion of the provinces at negotiating tables, what is mentioned less often is that, by the end of discussions, only federal negotiators remained at the table. This pattern was repeated in the NAFTA renegotiation. For the Ontario team, trust and cooperation had reached such a comfortable level that they did not feel provincial negotiators needed to be in the room at that point.^{xxxix}

The C-Trade meetings, described as a “data dump” by a senior Ontario official involved in trade negotiations, were also seen, by the Ontario team, to have improved. With the great volume of information required for NAFTA, C-Trade meetings gave way to separate meetings specifically dedicated to these negotiations. Provinces were not only consulted, but given the opportunity to provide input, and their input was considered. In contrast to TPP negotiations, where provinces were not seriously consulted because of the rapid pace of the process — or were only very belatedly

consulted for reporting considerations — Ontario negotiators found the relationship during NAFTA to be more inclusive and based in mutual trust.

During NAFTA negotiations, provinces also met amongst themselves to discuss specific issues in order to prepare for rounds^{xxxiv}. These meetings came together somewhat organically and informally, most often instigated by the province at the helm of the Council of the Federation, or held in parallel with negotiating rounds. Meetings on NAFTA’s renegotiation were held at the last Council of the Federation in Alberta, as well as alongside the NAFTA round held in Montreal in January 2018. Provinces were mostly well represented with strong teams, (even the Northwest Territories had a team of three negotiators). Provincial level trade policy capacity has become more visible. While resources and experts were previously difficult to find, the recent provincial involvement in CETA developed a new network of professionals with high-level expertise that figured prominently in the provinces’ negotiating teams in NAFTA. Provinces also coordinated pre-round meetings with stakeholders (agriculture, for example, is a sector in which Ontario and Québec have a united front), or export management teams (for a summary of the role of the provinces in trade negotiations see Table 2).

Table 2: Summary of provincial roles in trade negotiations

	CUSFTA	CETA	TPP	NAFTA/USMCA
Definition of the mandate	federal only	in consultation with provinces	federal only	federal only
Selection of Chief Negotiator	federal only	federal only	federal only	federal only
Selection of negotiating table leads	federal only	federal only	federal only	federal only
Provincial presence at the negotiating table	no	yes, but with limitations	no	no
Mechanisms for federal-provincial consultation	Premiers' conferences (14 meetings between the premiers and the Prime Minister of Canada); Committee on Trade Negotiations	C-Trade Forum Informal discussions	C-Trade Meeting	C-Trade Meeting Specific meetings for NAFTA/USMCA Informal discussions
Effect on provincial jurisdiction	minor	very important	minor	important
Approval mechanism	no	Approval by Parliament of Québec but not other provinces	Approval by the Parliament of Québec, but not in other provinces	Approval by the Parliament of Québec but not in other provinces

2.4. Challenges regarding implementation of the USMCA in Canada and its provinces

The provinces reacted very strongly to the conclusion of the new NAFTA deal now known as USMCA. Ontario and Québec vehemently protested the final content of the agreement. Concessions in supply management (opening a minimum of 3.6% of Canada’s dairy market to the United States), in particular the cancellation of class 7 milk products, as well as the maintenance

of tariffs on steel and aluminum that went against American promises to remove them, were the principal elements denounced by the provinces^{xxxv}.

Elections were held in Ontario and Québec during the NAFTA renegotiations. Both provinces saw a change in government with the election of Doug Ford of the Progressive Conservative Party and François Legault of the Coalition Avenir Québec. While there was a consensus in Ontario to sustain a “Team Canada” approach to negotiations during the election campaign, in Québec the NAFTA renegotiations became a hot issue, especially over the deep dairy concessions. During the election campaign, the leaders of all political parties in Québec were strongly opposed to any concession on supply management. All party leaders participated in a press conference organized with the “Union des producteurs agricoles” in Longueuil. Philippe Couillard of the Liberal Party, Jean-François Lisée of the Parti Québécois and Manon Massé of Québec Solidaire were on location. François Legault of the CAQ was in Saguenay at the time and did not participate, but voiced his support for supply management and was strongly opposed to any dairy concessions (Messier 2018).

Philippe Couillard, now former premier of Quebec, told reporters many times during the campaign that “there will be serious political consequences” if Ottawa makes concessions on dairy and supply management. When a journalist asked him, “how far are you ready to go?” the PM answered, “Just watch me”, a sentence used by Pierre Elliott Trudeau at the beginning of the October Crisis in 1970 in Québec. Philippe Couillard even said that he would impose Québec's “veto” over NAFTA and stated that no compromise was possible (Paquin 2018). While Québec does not, in fact, have a veto over trade negotiations, the province's ability to refuse to implement the deal is very real. At one point, the issue became so heated that the *Financial Times* reported that Canada was thinking of waiting until after the Québec election on October 1st to conclude the deal with the United States (Blackwell, 2018). The USMCA agreement was announced on September 30th, the night before Quebeckers went to the polls.

After the election, François Legault, the new prime minister of Québec, stated that “we will look at every option with specialists to see what can be done [to oppose the deal]”. The Québec Parliament could refuse to “approve the deal” and not make the necessary changes to Québec laws and regulations to implement the deal (Foisy 2018, Paquin 2018).

In Ontario, the reaction of Doug Ford, whose party defeated Premier Kathleen Wynne’s Liberals in June, was also negative. Doug Ford held views somewhat similar to the Québec premier, but instead of talking about blocking the deal, he immediately called for compensation to farmers^{xxxvi}. Although Minister Freeland has promised compensation to the agricultural sector, no specific numbers have been provided, and negotiations are currently ongoing. Provinces are still waiting for the compensation promised by the Canadian government after the TPP negotiations.

The relationship between Ontario Premier Ford and Canadian Prime Minister Trudeau has been difficult since Ford's election. Tensions first arose over the carbon tax and the Charter of Rights and Freedom (Delacourt, 2018). Regarding trade negotiation with the United States, the Ontario premier' attitude changed over time. In June 2018, Doug Ford publicly stated that “We stand shoulder to shoulder with the prime minister and our federal counterparts” and “ We are going to stand united. I know all provinces should be standing united with our federal counterparts” (Benzie, 2018). In October 2018, Ford stated that Ottawa left out many key sectors in the new

agreement, telling 600 supporters in a political rally in Etobicoke that “The new deal leaves too many Ontario families and businesses out on the cold. The Trudeau Liberals left out Ontario farmers, they left out Ontario’s steelworkers and aluminum workers” (Benzie, 2018a).

Intergovernmental Affairs Minister in Ottawa, Dominic LeBlanc, responded to the comment, stating that Premier Ford had fully supported Canada’s negotiating position, in public and in private. He also stated that: “Just days before the deal was concluded, the premier was briefed in detail in Washington, D.C., including about the modest changes to the supply management sector”.

Simon Jefferies, Doug Ford's press secretary, answered that "the more we study this deal, the more concerned we are that the federal government threw hard-working Ontario farmers, and steel and aluminum workers under the bus". The Ontario government is also very concerned about Canada's ability to negotiate future free trade agreements (Benzie, 2018a).

Implementation mechanisms for international trade agreements vary from province to province in Canada. While for Ontario, the USMCA will come into force directly, with perhaps minor modifications required to a few laws and regulations, no specific act need be passed at the provincial level. Ontario therefore has no power to block or oppose the entry into force of the USMCA in the province. The situation under CETA was slightly different, as the agreement strongly encroached on provincial jurisdiction with chapters on procurement, for example. In that case, the federal government had requested that the provinces indicate their agreement to CETA and describe measures they would undertake to implement it. Although there is no legal obligation to proceed in this manner, this was done specifically to avoid future issues with the provinces. No such commitment was requested from the provinces for the USMCA^{xxxvii}. Ultimately, most legislative modifications resulting from new provisions in the USMCA will have to be made at the federal level, be it the dismantling of Class 7 supply management, or increasing the term in patent laws to comply with the new longer obligations.

In short, thus, during NAFTA renegotiations the level of cooperation between federal and provincial negotiators fell somewhere in between that seen during CETA and 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 during CETA on the one hand, and NAFTA and the TPP on the other could be explained by the fact that the European Union insisted on provincial involvement in the CETA negotiation, and by the actual content of negotiations. The potential extent of provincial involvement in the event of Canada-U.K. negotiations, therefore, remains unclear and would depend on the issues discussed. If, however, such negotiations and the future trade deal were to mirror CETA’s, then we could expect direct provincial involvement.

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3. Devolved administrations and trade policy in the United Kingdom

3.1. Some background – policy competencies of the Scottish Government and Scottish exports

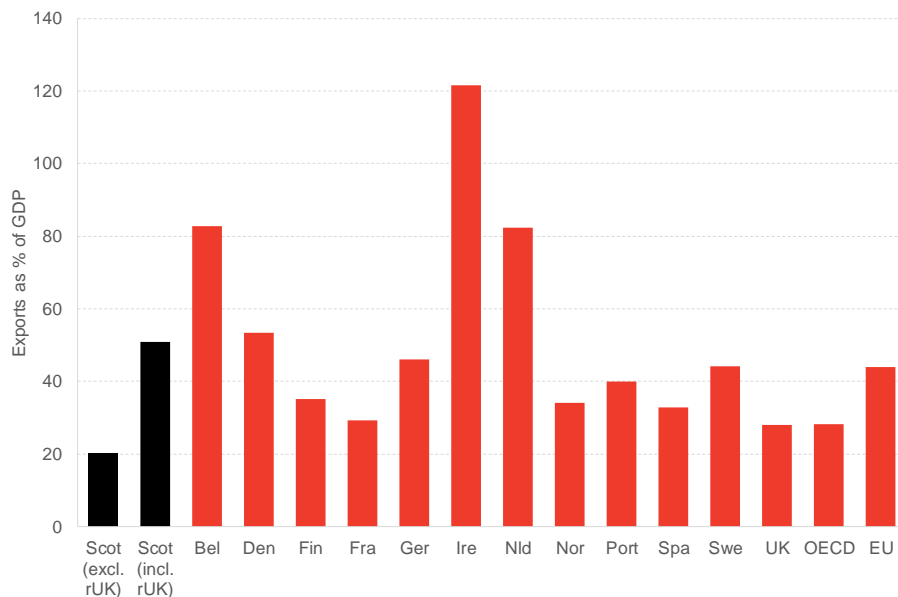
In this section of the report, we discuss the devolved policy context of the U.K. and assess how it will interact with future U.K. trade policies post-Brexit. We focus upon Scotland as it is the

most devolved nation of the U.K. and is best placed to highlight the issues involved. The policy competencies of the Scottish Government are diverse. Scotland operates a ‘reserved powers’ model of devolution, whereby policy is devolved unless it is explicitly reserved to the U.K. Government in the Scotland Act 1998. Policy areas reserved to the U.K. Government include: defence and foreign affairs; most social security benefits; immigration; and regulation of labour market, product markets, financial market and energy. However, there are increasingly areas where competence is shared, notably since the transfer of income tax and social security powers under the Scotland Act 2012 and 2016.

The Scottish Government’s policy competencies thus include: health and social services; education and training; housing; law and order; sport, recreation and arts; tourism and economic development. A number of policy competencies that are technically devolved are currently legislated for by the EU, notably around agriculture and the environment, with the Scottish Government having a role in implementing this policy. Future trade agreements made by the U.K. Government could therefore have tangible implications for areas of policy-making that are devolved to the Scottish Government.

There are some significant differences between the export sectors of most importance to Scotland compared to those of the U.K. For example, beverages are the second most important source of exports to the EU for Scotland, but only the 20th most important for the U.K. (Table 3). Fish and crustaceans are the third most important source of exports to the EU for Scotland, but only the 33rd most important for the U.K. These differences suggest that the Scottish and U.K. Governments may have different priorities in negotiating trade deals post-Brexit. Indeed, the treatment of fishing rights in the EU withdrawal agreement has been an ongoing source of tension between the two governments (and more generally between Scottish and U.K. politicians).

Chart 1: Export intensity of selected OECD countries



Source: Scottish Export Statistics, Scottish National Accounts, and OECD

Chart 2: Scottish exports by value and destination

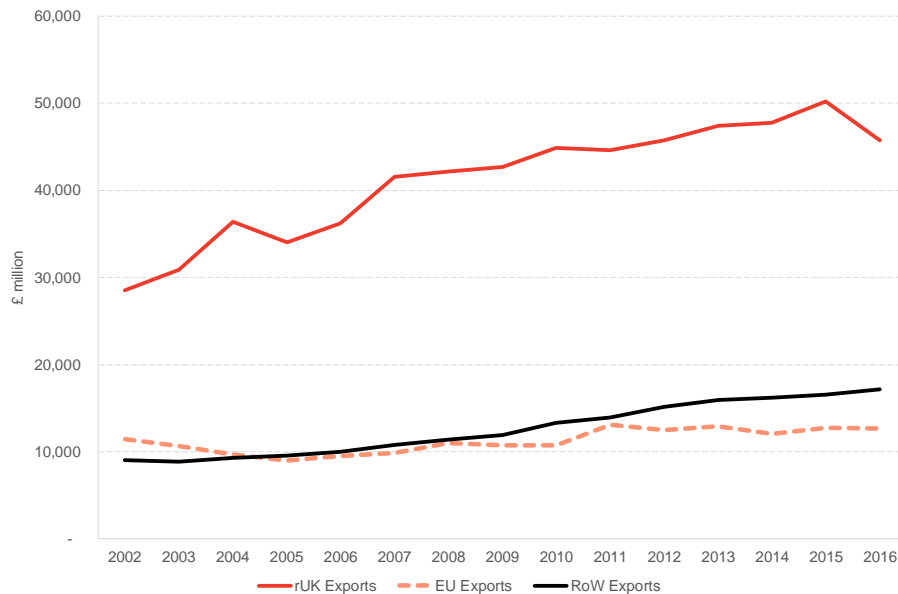
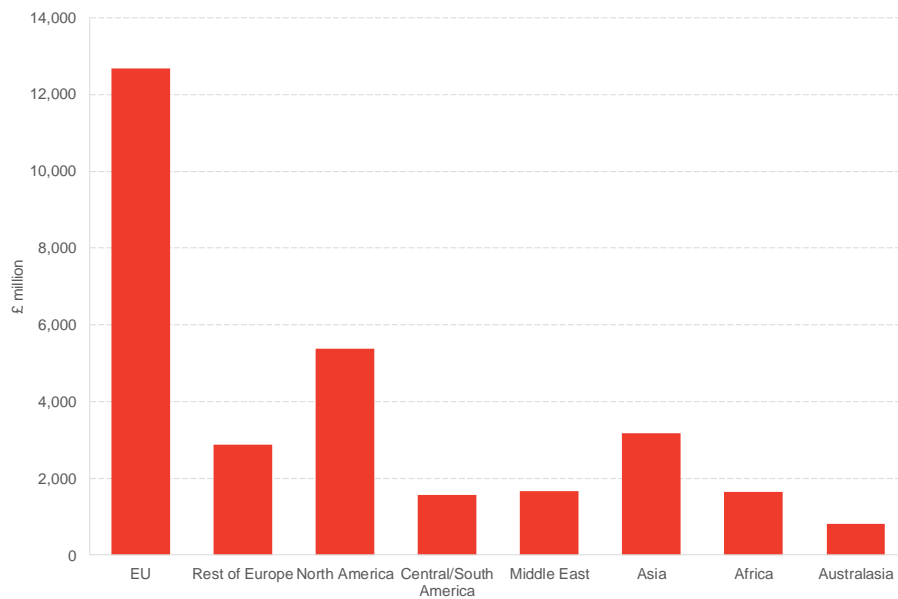


Chart 3: Scottish exports by value and destination



Source: Scottish Export Statistics

Depending on whether the rest of the U.K. is included or excluded as an export destination, Scotland can be thought of as having relative greater or lesser export intensity compared to comparator OECD countries (Charts 2 & 3). In terms of export destination, the rest of the U.K. is easily the largest market for Scottish exports, followed by the EU (Charts 2 & 3). According to Scottish Government trade statistics, Canada is Scotland’s 15th most important export destination, accounting for £610m of exports in 2016 (2% of Scotland’s exports by value).

Table 3: Top ten export Scottish export industries to the EU

	Scotland				U.K.
	Exports to EU Rank	EU Exports (£ thousand)	% of Total Sector Exports	% of Total World Exports	Exports to EU Rank
Petroleum & related materials	1	6,519,464	79.7%	22.6%	2
Beverages	2	1,340,773	31.5%	4.7%	20
Fish & crustaceans	3	696,825	76.4%	2.4%	33
General industrial machinery	4	464,438	37.3%	1.6%	7
Gas, natural & manufactured	5	454,895	89.4%	1.6%	23
Electronic machinery & appliances	6	432,976	51.2%	1.5%	8
Miscellaneous manufactured articles	7	364,058	58.7%	1.3%	5
Chemical materials & products	8	326,292	46.6%	1.1%	18
Power generating machinery & equipment	9	320,838	13.6%	1.1%	6
Office & Data processing machines	10	301,135	69.4%	1.0%	15

Source: HMRC RTS data

3.2. Existing arrangements for the involvement of devolved administrations and legislatures in agreeing and scrutinising trade deals in the U.K.

The U.K. has not negotiated its own trade deal for over 40 years. As a member of the EU's Customs Union, trade deals have been negotiated on its behalf by the EU. The processes for ratification of these trade deals depend on the type of trade deal negotiated:

- International trade agreements which relate to areas of exclusive EU competence only require to be ratified by the European Parliament.
- However, modern 'mixed' international trade agreements (which fall within the competence of the EU and Members States) must be ratified by the European Parliament and each Member State legislature.

The U.K.'s arrangements for ratification of international agreements are set out in the Constitutional Reform and Governance Act 2010 (CRAGA). Under that Act, and subject to certain exceptions, new trade agreements are laid before the U.K. Parliament and ratified if neither house (Commons and Lords) objects within 21 days. Parliament can delay consent by objecting to an agreement, but parliament has no power to amend a treaty or be involved in treaty negotiation. Indeed, it does not have to debate or vote on ratification, and the time allocated for debates is often very limited.

Responsibility for foreign affairs, including international relations and the regulation of international trade, is reserved to the U.K. Parliament and Government under Schedule 5 of the Scotland Act 1998.

There is no legal requirement to consult the devolved governments or legislatures, stakeholders or the public. There is no formal role for the Scottish Parliament in the ratification of international agreements, aside from its role in scrutinising any devolved legislation arising from implementing such agreements. Processes for scrutinising trade deals within the U.K. are therefore limited under existing arrangements.

However, the EU institutions play an important role in scrutinising trade deals. Trade agreements negotiated at EU level have the participation of the European Parliament and elected MEPs. Furthermore, the European Parliament's Committee on International Trade plays an important role in trade negotiations, including: to be regularly informed about negotiations; issuing resolutions to state its position and make recommendations during negotiations; and to provide or decline its consent to the final text of the agreement.

The Scottish Government, and the other devolved administrations, do have *some* role in informing the U.K. Government's policy discussions with the EU. At present, the role of the devolved administrations in working with the U.K. Government on European Union policy and International Relations is not protected in law but is set out in the Memorandum of Understanding (MoU) and Supplementary Agreements between the U.K. Government, Scottish Ministers, Welsh Ministers, and the Northern Ireland Executive Committee. The MoU includes a Concordat on Coordination of EU Policy Issues and a Concordat on International Relations.

The Concordat on Coordination of EU Policy Issues includes provisions for the involvement of Scottish Ministers 'as directly and fully as possible in decision making on EU matters which touch on devolved areas'. The practical manifestation of this commitment is the Joint Ministerial Committee on Europe (JMC(E)), which provides a forum for the devolved administrations to scrutinise and contribute to the U.K.'s proposed priorities for upcoming European Council meetings. The Scottish Government's Discussion Paper highlights that these arrangements have enabled the Scottish Government's position 'to be understood and reflected in the U.K. Government's policy position', particularly in relation to agricultural issues, although there have also been examples of 'cases where an issue of devolved competence has not been sufficiently recognised or understood to allow time for consideration of the policy position of the devolved legislatures'.

The Concordat also makes provision for Ministers of the devolved administrations to have a role in meetings of the EU Council of Ministers at which substantive discussion is expected of matters likely to have a significant impact on devolved responsibilities.

The Concordat on International Relations provides similar undertakings by the U.K. Government to exchange relevant information with the devolved administrations on areas that may touch on their policy responsibilities. It also allows for agreements between the devolved administrations and foreign national or sub-national governments or organisations, to facilitate cooperation on devolved matters, within certain constraints (i.e. provided such agreements don't purport to bind the U.K. in international law or prejudice U.K. interests). For example, the devolved administrations and the U.K. Government have concurrent powers to promote international trade and inward investment.

Following the EU referendum, a further body, the Joint Ministerial Committee on EU negotiations (JMC(EN)) was established in October 2016. In its Discussion Paper on trade, the Scottish Government notes that the meetings of the JMC(EN) have 'not always followed the pace of the negotiations, or taken place ahead of key events, as the terms of reference envisaged'. It is certainly the case that the JMC(EN) did not fulfil its declared remit to 'seek to agree a U.K. approach to, and objectives for, Article 50 negotiations', and there has been disappointment from devolved administrations that the JMC(EN) has not enabled them to have genuine impact on the thinking of the U.K. Government (McEwen et al. 2018). In general, the JMC is not a decision-

making body, and there is little or no experience of the JMC as a forum for ‘co-decision’ between the U.K. and devolved governments.

In summary then, the Scottish Government’s position, as set out in its Discussion Paper on trade (Scottish Government, 2018), is that:

- The existing arrangements in place within the U.K. for scrutinising the development and ratification of trade arrangements are ‘inadequate’.
- This said, EU institutions play an important role in scrutinising trade agreements as they are developed. The Scottish Government stresses concerns that the loss of the EU policy-making and scrutiny layer could have ‘disastrous’ consequences if not addressed through greater involvement of the devolved administrations, stakeholders, and others involved in policy formulation (Scottish Government, 2018).
- Current arrangements in place to enable the Scottish Government to influence the U.K. Government position on EU and international matters that may have a devolved implication ‘have proved inadequate in ensuring that Scotland’s interests are fully represented at EU and international level’^{xxxviii}.

The Scottish Government argues therefore that, following the departure of the U.K. from the EU, ‘the respective roles of the U.K. Government and Parliament and the devolved administrations and their legislatures in foreign policy development, and the making and ratification of international agreements, will have to change substantially, to reflect the magnitude and significance of change, and the loss of the EU as an additional scrutiny body’.

3.3. The EU Withdrawal Bill and tensions between the U.K. and devolved governments

The discussions about existing arrangements for scrutiny of trade deals and how these arrangements may need to change is further complicated by an ongoing dispute between the Scottish and U.K. Governments as to how policy-making in a range of areas currently exercised by the EU should be repatriated to the Westminster or Holyrood parliaments.

The purpose of the EU Withdrawal Bill (EUWB) is to transpose EU legislation into U.K. law, preserving EU law at the point the U.K. leaves the EU, and allowing it to be amended to continue to work in a U.K. context.

As it was initially introduced, the EUWB proposed that all ‘retained EU law – that is law currently determined in Brussels – should revert to the U.K. Parliament rather than the devolved parliaments. The U.K. Government argued that this was necessary in order to enable the U.K. Parliament to create new U.K.-wide legal frameworks to replace EU legislation.

The Scottish and Welsh Governments accepted the need for some form of U.K.-wide ‘Common Frameworks’ but objected to the way the Bill proposed repatriating all EU powers to the U.K. Parliament, and enabling the U.K. Government to unilaterally impose ‘Common Frameworks’, characterising this as a ‘power grab’.

Under the Sewell Convention (which is not legally binding), the devolved legislatures are required to give legislative consent to any Westminster legislation that affects the devolved competences. Both the Scottish and Welsh Parliaments initially refused to grant consent to the EUWB.

In response, the U.K. Government amended the Bill so that areas where EU and devolved law overlap will pass by default to the devolved institutions. However, the amendment also allows U.K. ministers to make regulations freezing the devolved governments' ability to change law in 24 specified areas in which the U.K. Government believes that legally binding legislative frameworks may be required. The U.K. Government's position is that Westminster needs the power to impose temporary restrictions on devolved power in certain areas governed by EU law, such as agriculture, fisheries and food standards and animal welfare, in order to ensure legal certainty until the U.K. decides what to put in place of EU frameworks.

The amendments to the EUWB inserted a 'sunset clause' that would limit the time over which powers can be retained at Westminster. The power of the U.K. Government to make regulations in 'devolved' areas will be limited to two years after the U.K.'s exit from the EU, and no set of regulations will be allowed to have effect for longer than five years. Importantly, devolved consent is not required for these regulations to be made (House of Commons Library, 2018).

These amendments were sufficient for the Welsh Parliament to grant legislative consent for the Bill, but the Scottish Parliament again refused. The Scottish Government's position is that any constraints on devolution are imposed only with the express agreement of Holyrood. In other words, the Scottish Parliament should have a legal veto power over amendments made in Westminster, rather than simply a convention seeking agreement.

Despite the refusal of the Scottish Parliament to grant legislative consent to the Bill, the U.K. Government pressed ahead with the amended Bill which was passed by the Westminster Parliament in June 2018. This led to a 'walk-out' from the Commons Chamber of SNP MPs in protest at the lack of time spent debating the devolution aspects of the Bill, and to First Minister Nicola Sturgeon describing the issue as a 'constitutional crisis'.

The Scottish Government argues that this 'centralising approach' to devolution issues is 'unacceptable, by conferring power on Westminster to restrict the Scottish Parliament's legislative competence and allowing U.K. Ministers to make changes in devolved policy areas without the consent of either the Scottish Government or Scottish Parliament' (Scottish Government, 2018). The Scottish Government has also made clear that it will, as a result, refuse consent to other Westminster Bills related to EU withdrawal, notably the Trade Bill.

In the meantime, through the JMC(EN), the devolved administrations have been working with the U.K. Government to develop an approach to agreeing common frameworks in those areas that are currently governed by EU law, but that are otherwise within the devolved competence of the devolved institutions. These Common Frameworks are thought likely to include common goals, minimum or maximum standards, harmonisation, limits on action, or mutual recognition.

However, the Scottish Government has already said that the list of 24 areas, published by the U.K. Government as areas in which it considers new legislative Common Frameworks are required, 'does not reflect an agreed position' as it was 'compiled without consulting the Scottish Government'. It argues that the scope and content of any U.K.-wide Common Frameworks should be 'agreed, not imposed' (Scottish Government, 2018).

3.4. Proposals for involving devolved administrations and legislatures in agreeing trade deals once the U.K. leaves the EU

The U.K. Government published a White Paper on future U.K. trade policy (Department for International Trade, 2017) which recognised that devolved administrations ‘will have a direct interest in our future trade agreements’ and commented that the U.K. Government would ‘work closely’ with devolved governments in order to ‘deliver an approach that works for the whole of the U.K., reflecting the needs and individual circumstances of the constituent parts of the U.K.’.

In its response to submissions received on that White Paper, the U.K. Government subsequently stated that ‘we are committed to working with the devolved administrations on our approach to the implementation of trade agreements signed after EU exit, as well as the role they will play in shaping the U.K.’s future trade negotiations’.

But what might the role of the devolved governments and legislatures be in practice? On this question, it is important to distinguish between arrangements for ‘rolling over’ existing EU trade agreements into domestic law, and the development of ‘new’ agreements with the EU or third countries.

In terms of ‘new’ agreements, the U.K. Government published a White Paper in October 2017 which, as already noted, made some high-level commitments to working with the devolved administrations, but did not get into specifics.

In July 2018, the Secretary of State for International Trade outlined further his proposals for the future role of the U.K. Parliament and other stakeholders in agreeing future trade arrangements. These arrangements largely envisaged providing more information on developments, rather than offering an active role in development of policy and subsequent agreements. Indeed, the provisions of CRAGA will continue to apply at the end of any negotiation process. In giving evidence to the Scottish Parliament’s Finance and Constitution Committee in September 2018, the Secretary of State for International Trade emphasised that there is no intention of fundamentally changing the role of Parliament in signing-off treaties, but not in signing off negotiating mandates or scrutinising draft texts (Scottish Parliament 2018).

In terms of devolved administrations and parliaments, the Secretary of State committed in July to ‘work closely with the devolved administrations on an ongoing basis to deliver an approach that works for the whole U.K.’ although it remains unclear, from a U.K. Government perspective, what this actually means in practice.

According to the Scottish Government’s Discussion Paper on Trade therefore, ‘the proposals outlined by Dr. Fox [to Parliament in July] do not therefore amount to any significant increase in scrutiny of trade deals at Westminster, let alone by the devolved administrations’.

In terms of existing trade agreements negotiated through the EU, the Trade Bill seeks to ensure continuity in the U.K.’s trading arrangements at the point of exit from the EU, by making provision to allow for the implementation in domestic law of any non-tariff elements reached between the EU and third countries before that date.

The Trade Bill thus ensures continuity in the U.K.’s existing trade and investment relationships with third countries by allowing steps to be taken to carry over, or ‘grandfather’ existing agreements between the EU and third countries when the U.K. leaves the EU.

The Scottish Government has two main concerns with the Trade Bill. First, it has similar reservations about the Trade Bill as it has with the EUWB – namely that it confers powers on U.K. Ministers to legislate in devolved areas without the Scottish Government’s consent. Second, it has concerns about the Bill’s proposals for ‘grandfathering’ existing trade agreements between the EU and third countries into U.K. legislation with minimal scrutiny.

Although existing trade deals have in theory been ratified through normal parliamentary process, the Scottish Government is concerned that third countries may seek concessions to these agreements as they are grandfathered. The Trade Bill deals only with the implementation of existing obligations, not the negotiations of trade deals and makes no provision for circumstances where the terms of existing arrangements change. But under current proposals, devolved administrations would not be involved in such negotiations, nor is there a mechanism for parliamentary scrutiny at U.K. level.

Indeed, the House of Commons Select Committee on International Trade has recommended, in relation to the Trade Bill, that the U.K. Government should set out provisions for enhanced involvement by the devolved administrations where substantive changes are necessary when EU trade arrangements are rolled over.

The Trade Bill also establishes a Trade Remedies Authority (TRA) to deliver a new trade remedies framework. The Trade Bill sets out the role of the TRA, whose role would be to protect domestic industries against injury caused by unfair trading practices – a role currently performed by the European Commission on behalf of EU Member States. The Scottish Government has argued that the TRA should include one non-executive member who can, effectively, represent Scottish interests and would be nominated by Scottish Ministers. The U.K. has responded that appointees to the TRA should not be appointed on the basis of geographic representation.

In summary then, the U.K. Government had made some high-level commitments to involve the devolved institutions in the development of trade agreements, but it remains unclear exactly what this commitment means in practice. The Scottish Government is concerned that the commitment will largely manifest in some information sharing through existing intergovernmental channels, but limited scope for influence by either devolved governments or legislatures.

3.5. SG proposals for agreeing trade deals once the U.K. leaves the EU

The Scottish Government outlined its proposals for arrangements for agreeing trade deals in its August 2018 Discussion Paper ‘Scotland’s Role in the Development of Future Trade Arrangements’ (Scottish Government, 2018).

The Discussion Paper argues that ‘it is important that Scottish Ministers have full, early and formal involvement in policy formulation and opportunities to influence the development and agreement of international negotiations, including in formulating and negotiating mandates’.

The justification for this standpoint is that ‘involving the devolved administrations from an early state in trade negotiations will deliver many tangible benefits. It will ensure that decisions about trade agreements and negotiating lines are made closer to the people affected by those decisions, and that their views are incorporated from an early stage, increasing public understanding of trade deals and providing an early warning of public concerns’. Moreover ‘involving the devolved administrations at an early stage of developing a trade deal will mean that

Ministers will be able to agree and present a negotiation mandate to the EU and third countries based on a proper domestic understanding of the issues at stake’.

The Discussion Paper highlights that the existing procedures in place for inter-governmental co-operation (the MoU and Concordats) were devised to support the U.K. in the EU, where the EU was responsible for negotiating and making international trade deals. It argues that if the U.K. leaves the Customs Union and responsibility for negotiating international trade deals shifts to the U.K. Government, then ‘the principles and arrangements set out in the MoU must be fundamentally reviewed, renewed and strengthened to address existing inadequacies, reflect the magnitude of change caused by Brexit and the loss of an important layer of scrutiny and expertise’.

To this end, the Discussion Paper proposes a statutory requirement that the agreement and participation of the Scottish Government and Scottish Parliament should be required where new U.K. trade agreements would have devolved content, or touch on devolved issues. The Discussion Paper notes that ‘given the scope of modern trade agreements, in practice this would almost certainly mean all such agreements’. It would also include instances where there were ‘significant changes’ to existing agreements through the grandfathering process.

The Scottish Government’s Discussion Paper thus proposes a process for agreeing international trade deals which includes the following stages.

- Preparation: agreement should be required from the devolved administrations for the negotiating mandate in its entirety.
- Negotiation: the devolved administrations should have a formal role in negotiations that impact on devolved areas, including a role in engaging with third countries, participation in negotiation rounds, and a vote on significant changes to the agreed negotiating mandate.
- Finalisation and decision-making: new parliamentary committees should be established within the U.K. and devolved parliaments to scrutinise agreements and their implementation. Importantly, the U.K. and Scottish Parliaments should have a role in the ratification and implementation of international trade agreements – including a requirement for consent – to ensure that the interests of all nations of the U.K. are reflected in any trade agreements. New trade deals should be signed by all countries of the U.K.

The Scottish Government also recommends that, in order to establish these arrangements and ensure they work well, a new statutory intergovernmental international trade committee should be established as soon as possible. This new committee would play a role similar to Canada’s ‘C-Trade’ Committee and could provide advice directly to the relevant legislatures which would in turn improve the effectiveness of their consideration of trade matters.

The Scottish Government is also keen to stress that it recognises that greater involvement in trade deals will come with greater responsibility, which it has reflected by establishing a new Directorate for International Trade and Investment within the Scottish Government.

The U.K. Government is yet to respond formally to the Discussion Paper. The Scottish Parliament’s Finance and Constitution Committee has however recommended that the U.K. Government should respond to the Scottish Government Discussion Paper ‘setting out its views on the roles of the U.K.’s respective governments and legislatures in the development of future U.K. trade arrangements with a view to introducing legislation which provides a statutory basis for these respective roles’ (Scottish Parliament, 2018).

From the Scottish Government's perspective, meaningful engagement of the U.K. Government with the devolved institutions on the development of trade agreements will require significant change to recent ways of working. The Discussion Paper on Trade states: 'Working with the devolved administrations to ensure greater legitimacy and transparency must begin with making the necessary amendments to the Trade Bill and other legislation to ensure that the principles of devolution are respected, that the agreement of the devolved administrations is required for any legislation to implement trade deals in devolved areas, and that there is adequate scrutiny of any significant adjustments to existing trade deals.'

What is clear is that if there is to be meaningful engagement of the devolved administrations in developing U.K. trade deals, there is a need to improve existing arrangements for intergovernmental relations.

There are clearly limitations to the U.K.'s existing system of Intergovernmental Relationships (IGR). Existing IGR arrangements include the various Joint Ministerial Committees (JMC) discussed previously, and the Finance Ministers Quadrilateral. These forums, the latter in particular, are generally viewed as being more effective at information sharing, rather than enabling joint decision-making. JMC meetings have been characterised by the devolved administrations as a mere 'talking shop', with no clear purpose or outcomes, and 'meaningless' processes for dispute resolution (McEwen et al. 2018). Moreover, IGR operate in a fairly opaque fashion, which can have implications for the ability of both parliaments and the electorate to hold government to account, and to judge between competing accounts.

In their recent review of the U.K.'s IGR machinery, McEwen et al. (2018) set out a range of recommendations to improve the operation of IGR. These recommendations include the creation of two new JMCs. A JMC (Internal Market) to agree principles for the development of U.K.-wide Common Frameworks, and a JMC (Trade) as a mechanism for informing the U.K.'s position as it embarks upon international trade negotiations. 'This would ensure both that the devolution dimension of trade deals is recognised and considered when developing negotiating positions, and that both the U.K. and devolved governments are aware of the implications of trade deals for devolved matters.'

It is increasingly likely that IGR arrangements will need to be able to facilitate co-decision between the U.K. governments. If the development of U.K.-wide Common Frameworks (initially expected to take the form of intergovernmental agreements, but in some cases likely also to be put on a statutory footing), then effective co-decision will be essential to avoiding a sense that 'agreements' are in fact being imposed by the U.K. Government. McEwan et al. suggest that JMC should aim to reach agreements by consensus, 'in line with normal practice in other multi-level systems', rather than using a voting formula to ensure that decisions could be reached by a majority. This approach would give devolved governments the ability to 'opt out' of any agreement, requiring separate bilateral agreement being reached between the U.K. Government and the opting-out government, although it is not clear what this would mean if the opt-out resulted in the type of regulatory divergence that co-decision aims to avoid.

McEwen et al. also suggest that elements of the JMC and IGR more generally should be placed in statute, although the authors also recognise that a legal underpinning in and of itself is unlikely to transform IGR – the effectiveness of which is as much influenced by the commitment of the respective governments, the culture and rules of engagement.

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4. Subnational trade & investment promotion organizations

4.1. Major commercial paradiplomacy networks in Canada and the U.K.

At the upstream of issues related to Canadian provinces' and British devolved regions' prerogatives on matters of international trade negotiation and treaty implementation lie the too often overlooked variables of commercial (para)diplomacy and trade promotion, which can play key roles in the elaboration and implementation of governments' trade and investment policies and strategies. The importance of commercial paradiplomacy should be the focus of particular attention when it comes to the development of Canada-U.K. commercial relations because as, respectively, a federation and a decentralized union state both countries are home to very numerous and influential subnational (in the case at hand, provincial/regional) public-sector trade and investment promotion organizations (TIPOs). These take – with notable exceptions (ITC 2015; UNCTAD 2013) – two main forms: foreign investment promotion agencies, which tend to be semi-autonomous, “arms-length” public sector organizations centered on the prospection and retention of FDI; and export promotion units, usually “in-house” components of ministries of the economy and/or international trade, and which support home businesses in their export and/or expansion projects overseas (Cruz et al. 2018; Halkier 2012; OECD 2018; Rota & Salone 2012; Zanatta et al. 2008).

As can be seen in Table 4 below, indeed, trade and investment promotion in these two countries, as well as the establishment of trade and investment offices (or “representations”) abroad are far from being the sole responsibility of central/federal governments. Of course, both the Canadian government, through its *Trade Commissioner Service* and now through its recently established *Invest in Canada* FDI promotion agency, and the British government through its *Department for International Trade* – which recently merged the activities of the defunct *U.K. Trade & Investment* (UKTI) agency with part of the ex-*Department of Trade and Industry*'s – are some of the world's most active in terms of commercial diplomacy. With networks of well over a hundred international trade and investment offices each – these can be either stand-alone offices or, more often, part of general delegations and embassies –, including one in the U.K. (London) in the case of the Canadian network and four in Canada (Montreal, Toronto, Calgary, Vancouver) in the case of the British network, both countries' central governments are fully and deeply engaged in the *promotion* of trade and investment, in addition to their more traditional diplomatic activities.

However, and given that in both countries, economic development and trade & investment promotion are jurisdictions shared between central and provincial/regional levels of government, all major Canadian provinces as well as British devolved regions maintain (and have been expanding) their own commercial paradiplomacy apparatuses. In the case of Canadian provinces, Quebec's network is by far the most developed (Rioux 2014), with 30 international trade and investment offices which can house – as in the case of Quebec's General Delegation in London (U.K.) – both commercial/economic attachés from the *Ministère de l'Économie* and its export promotion unit *Export Québec* (EQ), and business development representatives from the public agency *Investissement Québec* (IQ), specialized in the attraction and retention of FDI.

Table 4. Major Trade & Investment Promotion Organizations in Canada and the U.K. (2018)

	Trade Promotion (exports)	Investment Promotion (FDI)	Trade & Investment Offices Worldwide
Canada (federal)	Trade Commissioner Service	Invest in Canada	161 offices, including London (U.K.)
Quebec	Export Québec <i>(Ministère de l'Économie et de l'Innovation)</i>	Investissement Québec	30 offices, including London (U.K.)
Ontario	Ontario Export Services <i>(Ministry of Economic Development, Job Creation and Trade)</i>	Ontario Investment Office <i>(Ministry of Economic Development, Job Creation and Trade)</i>	15 offices, including London (U.K.)
Alberta	Ministry of Economic Development & Trade	Invest Alberta <i>(Ministry of Economic Development and Trade)</i>	12 offices, including London (U.K.)
British Columbia	Trade and Invest British Columbia		17 offices, including London (U.K.)
United Kingdom (central)	Department for International Trade		108 offices, including Montreal, Toronto, Calgary and Vancouver (Canada)
Scotland	Scottish Enterprise / Highlands & Islands Enterprise / GlobalScot	Scottish Development International / GlobalScot	40 offices, including Toronto and Calgary (Canada)
Wales	Business Wales <i>(Cabinet Secretary for Economy and Transport)</i>	Trade & Invest Wales <i>(Cabinet Secretary for Economy and Transport)</i>	20 offices, including Montreal (Canada)
Northern Ireland	Invest Northern Ireland / InterTradeIreland		21 offices, including Toronto (Canada)

British Columbia's is Canada's second largest provincial commercial paradiplomacy network, with seventeen international offices (including one in London) housing representatives from the public export and investment promotion agency *Trade and Invest British Columbia*. The third and fourth largest provincial networks are those of Ontario (15 offices) and Alberta (12 offices), whose trade and investment promotion activities are led by *Ministry of Economic Development and Trade* units.

With the exception of Quebec, the three devolved regions of the U.K. are actually even more active than Canadian provinces on this front. Scotland's commercial paradiplomacy network is particularly well-developed – and has expanded significantly under *Scottish National Party* governments since 2007 (Rioux 2014) – with forty international offices, including two in Canada (Toronto and Calgary) housing investment prospectors from *Scottish Development International* (SDI), a joint-venture between the Scottish Government and the public regional development

agencies *Scottish Enterprise* (SE) and *Highlands & Islands Enterprise* (HIE). In addition to the work of SDI, both investment and export promotion are also performed by SE/HIE themselves and by *GlobalScot*, a unique networking service delivered by SE and mobilizing the Scottish business diaspora around the world to assist Scotland's exporters and inward investors (Frontline 2007; MacRae & Wight 2011). With twenty international offices each (and a presence in Canada), Wales and Northern Ireland are also very active, respectively, through export promotion (*Business Wales*) and investment prospectation (*Trade & Invest Wales*) ministerial units, and through public export and investment promotion agencies *Invest Northern Ireland* and *InterTradeIreland* (a joint initiative between Northern Ireland and Ireland).

4.2. Existing literature on TIPOs

The importance of “commercial paradiplomacy” – i.e. trade and investment promotion activities of subnational government ministries, public agencies, and international offices – has been underlined by a relatively abundant literature in recent years (Aldecoa & Keating 2013; Kukucha 2008; Lachapelle & Paquin 2005; Michelmann 2009; Rioux 2014). A growing literature specifically devoted to the forms, functions and impacts of such trade and investment promotion ministerial units, agencies, and offices has thus also emerged in parallel. Most of it has been focused on either export promotion organizations or investment promotion organizations although the two are increasingly frequently being merged (ITC 2015; Rota & Salone 2012; UNCTAD 2013), as in the cases of British Columbia and Northern Ireland for instance. However, its findings are to a large extent complementary and with a few exceptions (Copeland 2007; Fuller et al. 2003), have demonstrated that such organizations generally have significant positive impacts on trade and investment flows.

Most TIPOs – at both national and subnational levels – operate within the public sector. Their two main forms are “in-house” ministerial units (about 1/3), and “arms-length” public agencies which often have private-sector representatives on their Board (2/3). In both cases, activities are usually closely coordinated with government policy and strategies, but agencies tend to be more flexible and autonomous in the delivery of services, to have bigger budgets, and a larger number of employees (Cruz et al. 2018; OECD 2018; Rota & Salone 2012; Zanatta et al. 2008). On average, such organizations can count on networks of around twenty international offices to carry out their mandates, which makes *subnational* agencies such as IQ and SDI particularly well-developed, even as compared to the agencies of small or medium-sized countries (Cruz et al. 2018; OECD 2018). Most *regional* TIPOs in federations or decentralized systems moreover, and this is the case for all abovementioned Canadian provinces' and British regions', operate independently from (although often in concertation with) national organizations and diplomatic services, and are coordinating much more closely with their own government sponsor and other regional organizations (Zanatta et al. 2006, 2008; Gil-Pareja et al. 2015; Lederman et al. 2010; Wilkinson et al. 2005).

TIPOs perform a range of key functions, and there is a consensus in the literature to the effect that their scope has been expanding over the past decade or so, to the extent that some have become full-fledged economic development agencies in all but name (Halkier 2012; OECD 2018; Rota & Salone 2012). The central economic rationale behind the establishment of most such organizations – in addition to the benefits of exports and FDI for economic growth – has been that of “information asymmetries,” a specific type of market failure. Information asymmetries refer to the fact that both exporters (especially in the case of first-time exporters and/or smaller businesses)

and foreign investors generally have limited knowledge about their target market(s) and/or clients, and that the costs (in time, money, resources, etc.) of acquiring such appropriate knowledge might appear prohibitive in comparison to the projected benefits (Charlton & Davis 2007; Copeland 2007; Cruz et al. 2018; Harding & Javorcik 2011; Lederman et al. 2010; Lim 2008; UNCTAD 2013; Van Biesebroeck et al. 2016). This is of some importance for the issue at hand because it means that TIPOs are particularly useful for partners – such as Canada (provinces) and the U.K. (regions) – who have rather limited commercial relationships with each other, and thus have more limited knowledge of their markets.

In the case of export promotion organizations, services offered to address such asymmetries range from, but are not limited to: managerial advice and support, market intelligence, marketing (on behalf of and working with individual businesses or industrial sectors) in ministerial visits, commercial missions and trade fairs, networking (helping exporters find clients, suppliers and distributors), and the management of financial or fiscal aid (Cruz et al. 2018; Ilias et al. 2013; Kotabe & Czinkota 1992; Lederman et al. 2010; Van Biesebroeck et al. 2016; Wilkinson et al. 2005). In the case of investment promotion organizations, services include: “branding” of the home market and/or industry as an attractive investment destination, identification of potential investors, industrial “targeting” (finding investors likely to complement or complete home market clusters’ supply-and-value-chains), “matching” services (linking foreign investors with potential local partners), management of financial/fiscal incentives, as well as “aftercare” services, i.e. the accompaniment of investors and the retention or “embedding” of investments and foreign subsidiaries in the home market (Charlton & Davis 2007; Fuller et al. 2003; Lim 2008; OECD 2018; Rota & Salone 2012; UNCTAD 2013; Zanatta et al. 2006, 2008).

TIPOs, thus, are particularly knowledgeable of their targeted industries and markets, and of the specific needs of exporters and foreign investors. For this reason, they generally serve another crucial function: *policy advocacy*. Such organizations, indeed, will generally coordinate closely with their government sponsors to provide information and advice on businesses’ and investors’ needs, as well as on policy best practice and potential policy reforms (Rota & Salone 2012; Olaru 2014). This is of particular importance when it comes to future commercial negotiations between Canada and the U.K. after Brexit: it means that provincial and regional TIPOs are not only best placed to inform exporters and investors of the potential impacts of Brexit on their business, but also to inform governments themselves, as well as future trade negotiators, of the market gaps or opportunities that a potential trade agreement should address in priority. This last aspect of TIPOs’ activities and responsibilities, finally, raises the issue of their effectiveness: these organizations are not only well-placed to provide policy advice because they possess first-hand information on market conditions, but also because they have proved their effectiveness at increasing trade and investment flows when and where their activities are deployed.

There is a quasi-consensus in the literature in this regard: not only do TIPOs strongly contribute in growing and diversifying trade and investment flows (by helping exporters and investors overcome information barriers), but they also contribute in upholding them in times of economic downturns and crises, thus helping exporters and investors cope with them (Anderson & Sutherland 2015; Charlton & Davis 2007; Lederman et al. 2010; Lim 2008; Van Biesebroeck et al. 2016). In fact, some analysts even went as far as saying that the opening of a trade and investment promotion office abroad “is almost equivalent to signing a free trade agreement with the same country” (Cruz et al. 2018: 11). This, of course, should also resonate when it comes to the issue at

hand. Exporters and investors from both the U.K. and Canada have already been facing deep uncertainty with regards to the impacts of Brexit, which is more than likely to cause important market disruptions when it comes into effect. The work of TIPOs (national, but also and perhaps most importantly regional and provincial) in providing information, business support, and policy advice is thus likely to become particularly crucial in the coming months and years, both in the context of Brexit and in the case of future trade negotiations between the two countries.

Interesting analyses of *regional* TIPOs have indeed been performed over the years and have demonstrated their key importance. Kotabe and Czinkota (1992), for instance, highlighted the necessity of a good match between TIPOs' services and the specific needs of the business population they serve (industrial sectors, businesses' size and age, experience in export markets, etc.), which is more likely to be effectively attained at the subnational level and in this case, at the level of U.S. states. Accordingly, Wilkinson et al. (2005) have found that state-level export promotion activities in the U.S. have a significant positive impact on states' export levels, and that the importance of such activities is especially great for small-and-medium businesses with fewer resources and experience. Similar research has also been conducted, recently, on Spanish regions' TIPOs and uncovered interesting trends (Gil et al. 2008; Gil-Pareja et al. 2015). Namely, the wider the network of TIPOs offices abroad, the higher the budgets of such offices, and the longer those TIPOs and offices have been established, the more efficient they tend to be in boosting exports and investments. Moreover, regional TIPOs (from Catalonia and the Basque Country, in particular), have been especially important in deepening trade relationships with "less well-known" markets *outside* of the EU, with which Spain has no formal trade agreements.

In conclusion, thus, these studies show that there is a clear case for enhanced focus on subnational TIPOs, on their importance in upholding and/or expanding provincial/regional trade and investment flows with the U.K./Canada, and on their potential roles in advising policymakers, negotiators, and business communities in the context of a future trade negotiation between the two countries. To illustrate their importance and potential roles, a quick look at the two longest-standing and best-developed subnational trade and investment networks in the U.K. and Canada, those of Scotland and Quebec, can be useful.

4.3. Scottish and Quebec TIPOs

The Scottish network, first, is by far the largest among U.K. regions' and comprises four main TIPOs – SE, HIE, SDI and GlobalScot – which coordinate closely with each other, with the Scottish Government, and with other business organizations such as the chambers of commerce, exporters associations, sectoral industrial associations, and British services ("*One Scotland*" approach). This network operates, outwith Scotland, through 22 offices in Europe and the Americas (including two in Canada) and 18 offices across Africa, the Middle East, Asia, and Oceania. Over the last ten years, from 2008 to 2018, SE/SDI spent a total of around £210 million on "internationalisation" (trade & investment) services, attracted FDI projects having generated over 23,000 "high value-added" jobs in Scotland, and helped thousands of expanding or new exporters break into new markets (SE 2008-2018). This makes SDI one of Europe's best performing investment promotion organizations in Europe (national and subnational alike), both in terms of investments per capital it is attracting and in terms of aftercare and networking services it is offering its clients once in the Scottish market (DTZ 2009; SQW 2012). The Scottish network's support (information, managerial training, and financial aid) for exporters is also widely recognized,

including by the Scottish business community itself, as highly efficient (Frontline 2014; SQW 2012).

The “internationalisation” activities of Scottish TIPOs have been intensified and have increased in effectiveness over the last few years moreover, with a renewed focus on first-time exporters and investors, on strategic industrial sectors (food & drink, creative industries, life sciences, tourism, energy, corporate services), and on new target markets, in line with the Scottish Government’s (2016) latest trade and investment strategies. Between 2012 and 2016, they have generated between £2 to £3.5 billion in value-added for the Scottish economy (SQW 2017). Canada, furthermore, has been one of these new target markets where internationalisation activities have been intensified following the 2010 “Plan for Engagement with Canada” and the 2017 “Canada Engagement Strategy.” The establishment of new staff (“Team Scotland”) at the Toronto and Calgary offices, the strengthening of the GlobalScot network in Canada (now comprising 17 members in direct contact with SDI/SE/HIE), the creation of the [*Alberta-Scottish Business Association*](#) and [*British Columbia-Scottish Business Association*](#), and various sectoral events and partnerships (creative industries, science & innovation (universities), student exchanges, oil & gas, renewable energy) have tightened Scotland’s trade and investment relationships with Canadian provinces further (Scottish Government 2012, 2016, 2017). From this perspective, it makes no doubt that the work and input of Scotland’s TIPOs in the case of future trade negotiations between Canada and the U.K. would be highly valuable.

The same can be said of Quebec’s TIPOs, besides, which can count on a network of 10 offices across Africa, the Middle East, Asia and Oceania, in addition to 20 other offices in the Americas and Europe including one in London ([*Délégation générale du Québec à Londres*](#)), which houses five economic/commercial attachés and two representatives from IQ. Quebec’s trade and investment promotion network, comprising IQ and EQ (which also coordinate with Canadian services and with other Quebec organizations such as the [*Organismes régionaux de promotion des exportations*](#), [*Montréal International*](#), and [*Québec International*](#)), is also by far the most active among Canadian provinces’. Over the last ten years or so, IQ was able to attract over 700 FDI projects worth over \$15 billion, half of which originated from European investors (no country breakdown is available). Among the industrial sectors targeted by IQ’s business development representatives have been, mainly, aerospace and transport, information and communication technologies, software, life science, renewable energy, and food & drink (IQ 2008-2018). In the case of export promotion in turn, the work of EQ (established in 2011) and of the Ministry of which it is part has, over the last decade, led to expenditures of over \$170 million in services to exporters, to the accompaniment of almost 28,000 businesses (a quarter of which, on average, for European markets), and to participation in 825 commercial missions including, of course, to the *Farnborough International Airshow* every two years (MÉQ 2007-2017; MRI 2007-2017).

There is no more doubt, therefore, as to the value of the work and input Quebec’s TIPOs could provide in the context of future trade negotiations between the U.K. and Canada. Quebec’s representatives in London, as well as IQ and EQ more generally, already possess very valuable information on export and investment markets on both sides of the Atlantic, notably with regards to industrial sectors on which Brexit could have considerable effects, such as agri-food, manufacturing, real-estate, financial services or, to a lesser extent, aerospace. Quebec’s attachés and business development officers – in coordination with Canadian and other provincial representatives, with whom they generally meet twice a month in London^{xxxix} – will certainly play

key roles, in this context, in obtaining the relevant information and market intelligence, and in advising exporters (some of which are now asking if Ireland could be a better option) or investors on new barriers and/or new opportunities. Quebec has never really been a priority market for British investors, even within Canada. *Brexit* could thus provide an opportunity to alter this trend and, perhaps, to brand Quebec as the first major market on the way to the U.S., with which Canada has a free-trade agreement and on which British investors and exporters will certainly come to rely more heavily. For all the reasons previously mentioned, Quebec's TIPOs' knowledge of markets and of exporters' and investors' needs could thus become of great value for governments and negotiators in the event of trade talks.

5. Conclusion & Recommendations

Beyond the observations, arguments, and recommendations this knowledge synthesis report makes, it is important to keep to following in mind: while the experience of Canadian provinces in the negotiation of trade deals is interesting for the U.K. context, the extent to which the Canadian experience can be applied to the U.K. case can be debated. Canada is a federal state, with a constitution that expects and anticipates strong provincial influence on policy matters. The U.K. in contrast is a unitary state with devolved administrations. Whilst there is an expectation that devolution settlements will be respected, the U.K. Parliament is sovereign. Intergovernmental conflicts that have arisen since the Brexit vote – in relation to the EU Withdrawal Bill and Trade Bill – have emphasised the fundamental tensions that arise where the U.K. and devolved governments disagree over matters of devolved competence. Whilst the U.K. Government has recently re-affirmed its commitment to the Sewel Convention (which states that the U.K. Government will not normally legislate in areas of devolved competence), it has also argued that 'it has never been the case that devolution means that the Scottish Parliament, or any devolved legislature, has a veto over the U.K. Parliament's ability to make laws for each of the devolved nations'^{xl}.

The U.K.'s exit from the EU, and the loss of this layer of scrutiny, has galvanised debate around how arrangements for agreeing and scrutinising trade arrangements should change in a post-EU environment. Indeed the U.K. Government has recognised the need for a more 'transparent and inclusive' approach to developing future trade policy, with the 'U.K. parliament, the devolved administrations, the devolved legislatures and the public from every part of the U.K. having the opportunity to engage with and contribute to our trade policy' (Department for International Trade, 2017).

In practice however, it remains unclear quite what this commitment will mean in practice, and the extent to which the U.K. Government is genuinely committed to enabling stakeholders, including devolved parliaments and legislatures, to influence as opposed to simply be informed about, the development of trade agreements. The Scottish Government has made very clear its view that there needs to be a step change in the involvement of devolved governments, devolved legislatures and the public more generally in the development and ratification of trade agreements – including grandfathered trade deals where these involve significant change, as well as 'new' agreements.

The Scottish Government has argued that Scottish Ministers (and ministers in other devolved administrations) should have full, early and formal involvement in policy formulation

and opportunities to influence the development and agreement of trade deals. It also proposes a statutory requirement that the agreement and participation of the Scottish Government and Scottish Parliament should be required where new U.K. trade agreements will have devolved content, proposals supported by the Scottish Parliament's Finance and Constitution Committee.

It is clear however that if the devolved institutions are to have real, meaningful involvement in the development and scrutiny of future trade deals, this will require a step-change in the way in which inter-governmental relationships work. These intergovernmental relationships need to evolve to allow for genuine co-decision making. This may require some changes to formalise existing intergovernmental relationships, but more than this it is also likely to require an attitudinal shift in the way in which intergovernmental relationships are conducted. It is clear also that the devolved parliaments will want to have much greater involvement in scrutinising trade agreements as they are developed.

Yet, the ongoing tensions between the Scottish and U.K. Governments in relation to the EU Withdrawal Bill and the Trade Bill – not to mention around the nature of the EU withdrawal agreement itself – may mean that progress on reforming intergovernmental relationships remains challenging in the short-term. But with the U.K. Government theoretically in a position to begin negotiating trade deals following the U.K.'s exit from the EU at the end of March 2019, there is an urgent need to progress these issues if further constitutional crises are to be avoided.

This is where, perhaps, the Canadian experience becomes instructive although, as illustrated in this report, it has been far from perfect or devoid from conflicts with regards to provincial involvement. During the recent NAFTA renegotiations for instance, the level of cooperation between federal and provincial negotiators fell somewhere in between that seen during CETA and TPP negotiations in previous years. 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 during CETA on the one hand, and NAFTA and the TPP on the other could be explained by the fact that the European Union insisted on provincial involvement in the CETA negotiation. The potential extent of provincial involvement in the event of Canada-U.K. negotiations, therefore, remains unclear and would depend, notably on the set of issues discussed.

In accordance with the findings of our three sections finally, and with the knowledge gathered on the shortcomings of the Canadian model, on the challenges facing the U.K.'s devolution system after Brexit, and on the potential value-added of provincial and regional TIPOs, we are now able to formulate six main recommendations which could inform policymakers, trade negotiators, and various other stakeholders with regards to the involvement of provinces, regions and agencies in international trade negotiations and, therefore, in the event of future Canada-U.K. trade talks. The recommendations are the following:

- 1) The Canadian [Council of the Federation](#) should hold a meeting or series of meetings devoted to discussions on the roles and prerogatives of provinces and territories in international trade negotiations, and ideally agree on a set of basic principles to be presented to the federal government, aimed at the harmonization of practices for future trade talks.

2) In the event of a post-Brexit Canada-UK trade negotiation, the Canadian provinces and the UK's devolved regions should meet, discuss and ideally agree on a set of common demands regarding their involvement in negotiations themselves, and regarding issues which, in both countries, are of provincial or regional responsibility.

3) As part of a general strengthening of the UK's intergovernmental relations system after Brexit, a Joint Ministerial Committee on Trade (JMC Trade) should be established which would enable the devolved administrations to inform the UK's negotiating position, and thereby ensure that devolved interests are reflected in trade negotiations. As part of this, a key role of the JMC(Trade) could be to share independent advice – provided to both central and devolved governments – on the potential implications for devolved competencies of different trade deals.

4) 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 particular interests or expertise. This way, the scope for fundamental disagreements as to the finalisation of trade agreements would be less likely as an outcome.

5) Scrutiny arrangements need to be strengthened at both the UK and devolved parliamentary levels following exit from the EU, in order that there is 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.

6) In the case of a Canada-UK trade negotiation, 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, in order to ensure that nationally-established priorities are consistent with the needs of provincial/regional markets and of (smaller) exporters and investors.

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6. Knowledge Mobilization

Our report was elaborated in cooperation with many stakeholders and practitioners, and its results will be shared widely, both in academic and non-academic settings. The main research users of this synthesis will be trade negotiators, policymakers and senior officials from trade and investment organizations and Ministries, as well as academics and students of international relations and trade. Accordingly, we plan to engage with each type of user in various ways.

At the outset of the project, and during the elaboration phase of the report, Drs. Paquin and Rioux collaborated and met with high-ranking practitioners at the provincial and federal levels in Canada and Quebec. Representatives and attachés from Quebec's General Delegation in London, as well as business development officials from *Investissement Québec* and trade negotiators from the Government of Quebec were among the collaborators. Similarly, Drs. Roy, Wootton and Eiser met with stakeholders in the Scottish government. Key contacts from the Scottish Government who agreed to participate included Kevin Quinlan, Director of International Trade & Investment, and Karen Watt, Director of External Affairs. Representatives of the Scottish Parliament such as Iain

McIver, Senior Researcher for Europe and International Affairs, and Jim Johnston, Clerk at the Finance and Constitution Committee, also collaborated.

A number of concrete research outputs are also considered. Aside from the knowledge mobilization workshop (Ottawa, July 2018) and forum (London, December 2018), our report will be presented and discussed as part of Dr. Paquin's annual Summer School on international trade negotiations in August 2019, which brings together practitioners, academics, and graduate students. An international conference on economic nationalism and (Canadian) trade policy, organized in Montreal by Drs. Paquin and Rioux in March 2019, will also be a good opportunity to present and discuss the report with well-known experts from all over the world. Preliminary results have also been presented at the occasion of a conference organized by the new *Centre d'analyse politique – Constitution et fédéralisme* (CAP-CF) in Montreal in November 2018, and the final report will be presented to the *Centre interdisciplinaire de recherche et d'information sur les entreprises collectives* (CIRIEC-Canada), and to the *Center for International Governance Innovation* (CIGI) in Waterloo, Ontario.

In parallel of the December 2018 workshop in London, moreover, our team organized another workshop in Glasgow, Scotland, where the final report was presented to members of the Scottish Parliament and Government. A condensed version of the report will also be published in a special issue of the peer-reviewed journal *Regional & Federal Studies* in 2019 or 2020. Finally, web postings of the report on the GÉRIQ, ÉNAP A+ websites as well as on the Fraser of Allander Institute's website, which receives widespread pick-up in Scottish policy circles and media, will complete our knowledge mobilization effort. To reach an even wider audience, short videos summarizing research findings will also be recorded and published on the Fraser of Allander Institute's website.

* * *

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- viii Anonymous interview in Montreal in August 2018.
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- xiii Anonymous interviews in Québec October 2017 and October 2018 and in Montréal, in August 2018.
- xiv Anonymous interview in Québec October 2017, April and October 2018 and Toronto in and March and October 2018.
- xv Anonymous interviews in Québec October 2017 and October 2018 and in Montréal, in August 2018.
- xvi Anonymous interview in Toronto in March 2018.
- xvii Anonymous interview in Québec October 2018.
- xviii It should be noted that although the environment chapter was included, there was no mention of climate change, as had been undertaken as a priority by the Canadian government.
- xix Anonymous interviews of Ontario officials in October 2018.
- xx Anonymous interview, June 2014.
- xxi Anonymous interview in Toronto in October 2017.
- xxii Anonymous interview on Toronto, June 2017.
- xxiii Anonymous interview, Montreal, August 2016.
- xxiv Anonymous interview in Québec October 2018.
- xxv Anonymous interviews of Quebec and Toronto officials in October 2018.
- xxvi Anonymous interview of Ontario officials in October 2018.
- xxvii It may therefore be the case that Premier Ford did not receive the last update on the supply management compromise, although the federal government explicitly indicated having sent a memorandum on the very issue.
- xxviii Anonymous interview of Quebec officials in October 2018.
- xxix Anonymous interview of Quebec officials in October 2018.
- xxx Anonymous interview of Quebec officials in October 2018.
- xxxi Anonymous interview in Québec October 2017, April and October 2018 and Toronto in March and October 2018.
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- xxxvi <https://www.cbc.ca/news/canada/toronto/usmca-ford-1.4845481>.
- xxxvii Anonymous interview with Ontario officials, October 2018.
- xxxviii The Scottish Parliament's Finance and Constitution Committee, in its report on the EU Withdrawal Bill, came to somewhat more positive conclusions, finding that 'the EU policy-making process is relatively open and based on a number of treaties agreed by the Member States. Both the devolved institutions and devolved stakeholders have the opportunity to influence the process both directly with the EU institutions and indirectly via the U.K. Government. The European Parliament also has a scrutiny function.' (Scottish Parliament, 2018).
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