



December 23, 2021

Via email: [Elisabeth.Huot@international.gc.ca](mailto:Elisabeth.Huot@international.gc.ca)

Elizabeth Huot  
Junior Business Analyst  
Services Trade Policy Division - Global Affairs Canada  
111 Sussex Dr., Ottawa, ON K1N 1J1

Dear Elizabeth Huot:

**Re: Canada-UK Free Trade – Questions relating to Trade in Services**

I write on behalf of the Immigration Law Section of the Canadian Bar Association (the CBA Section) in response to your invitation to comment on a future bilateral free trade agreement with the United Kingdom (UK) and the UK's request to join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

The CBA is a national association of 36,000 lawyers, law students, notaries and academics, from every jurisdiction of Canada, with a mandate that includes seeking improvements in the law and administration of justice, and access to justice. The CBA Section is comprised of over 1,200 lawyers, practising in all aspects of immigration law and rendering professional advice and representation in the Canadian immigration system to clients in Canada and abroad.

In April 2021, several other CBA Sections contributed to a submission on Canada-UK Free Trade Consultations.<sup>1</sup> This letter is not intended to replace or alter the recommendations in that submission. In this letter, we answer strictly from an immigration law perspective and only address the services that the CBA Section members offer and the challenges UK residents face to enter Canada.

***Services to customers/consumers located in the UK***

CBA Section members offer immigration advisory services to UK clients who need to travel to Canada. Our services facilitate:

- labour market entry of UK nationals to offer services to Canadian businesses and employers;
- business activities of UK nationals and investors who enter Canada for sales, marketing, research, etc.;

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<sup>1</sup> [CBA Submission on Canada-United Kingdom Free Trade Consultations.](#)

- entry of businesspersons to participate in the Canadian labour market;
- entry of youth for studies, employment and training opportunities;
- entry of visitors and other temporary residents; and
- processing permanent residence applications for family reunification, economic migration, refugee resettlement and others.

As lawyers practicing immigration law, our clients may be large corporations, small and medium sized businesses, or individuals entering Canada to perform services, study, immigrate permanently or for tourism.

Our UK-based clients requiring government processing are usually served through visa offices abroad, although some clients may access immigration services upon arrival in Canada. Applications are processed by the government via online portals or in-person from a third-party service provider, known as a Visa Application Centre (VAC).

Immigration, Refugees and Citizenship Canada (IRCC) delivers services through visa offices around the world in Canadian embassies, high commissions and consulates. Visa officers process applications for permanent immigration, temporary resident visas, refugee resettlement and travel documents for permanent residents abroad. The High Commission of Canada in London is responsible for applications for residents of the UK and some neighbouring countries.

### ***Challenges to UK residents entering Canada***

Global mobility in an increasingly connected world must foster the transfer of trades and skills. Moving people quickly and easily into the Canadian labour market, at a time of increased demand for labour (and increased global competition for skilled labour) is essential. As such, a free trade agreement with the UK must remove the current barriers for UK service providers, business personnel, workers and their families to enter Canada.

One of the barriers to mobility between the UK and Canada is the lack of flexibility in the existing mobility programs. This is evidenced by long processing times (up to four and six months) and the lack of dedicated programs for facilitating UK nationals to work in Canada. The current mobility provisions in the Canada-UK Trade Continuity Agreement (CUKTCA) and the Canada-European Union Comprehensive Economic and Trade Agreement (CETA) do not adequately address the barriers to labour market entry to Canada.

Flexibility is key to ensuring that the changing labour market needs of each country are met. We recommend that a new agreement include mobility provisions modeled after the flexible approaches in the CPTPP, where Canadian companies can benefit from faster work permit processing enabling them to react quickly to labour shortages.

We echo the CBA's April 2021 recommendations in response to the earlier consultation on Canada-UK free trade. The current CUKTCA provisions for entry of professionals, technicians, intra-company transferees, business visitors and investors remain rigid and do not give timely access to the Canadian labour market for highly sought-after skills.

Should a "positive list" approach be taken for occupations allowed for Professionals and Technicians to enter the labour market, we also recommend that this positive list be reviewed every three to five years to ensure that the most relevant occupations and changing labour market conditions are reflected.

Where authorization is required to enter the Canadian labour market, work permits could take weeks or months to process. Delays become barriers to Canadian businesses that require timely entry of foreign workers, professionals, or technicians. These delays make it difficult for businesses and employers to operate at full capacity.

In addition to UK citizens, we recommend the inclusion of long-term UK residents as well as UK Overseas Territories in the group of foreign nationals eligible to benefit from the labour market mobility conferred under free trade agreement. The CPTPP is a precedent: permanent residents and citizens of Australia may benefit from the Professionals and Technicians category of work permit.

We recommend no caps or limits to work permit extensions. CETA limits of 12 months (in a 24-month period) for contractual service providers and independent professionals is prohibitive to long-term business planning. Except for intra-company transferees, there is no limitation on the total duration of a work permit under the CUSMA or CPTPP.

Labour market testing requirements may disadvantage UK nationals from entering the Canadian labour market. For example, a comparable Australian citizen may be able to obtain a work permit upon entry to Canada utilizing the Professionals category of the CPTPP, where the UK national would be required to obtain a Labour Market Impact Assessment (LMIA) before being eligible to apply for a work permit. Similarly, a UK national may be disadvantaged compared to a US citizen seeking work with a Canadian employer directly as a professional (e.g. accountant, lawyer, veterinarian, teacher, etc.) because, unlike the CUKTCA and CETA which restricts work authorization to contractual service providers and independent professionals, CUSMA allows foreign workers to be direct employees of a Canadian employer. Canadian businesses are not allowed to directly hire an individual using the CUKTCA or CETA. Instead, they may only:

1. Contract services to UK or EU Service Providers who temporarily send their employees to Canada; or
2. Contract services to independent professionals who do not become employees of the Canadian business.

Foreign technicians and service personnel are important for Canadian businesses requiring installation, configuration, repair, and other after-sales/after-lease services. Their entry may be delayed when equipment is out of warranty or when hands-on work is related to building and construction. Removing barriers to the entry of technicians and service personnel will alleviate pressure on businesses requiring timely service on equipment to prevent production delays and closures. We recommend an expansive approach to defining business visitor activities or activities that allow work without a work permit.

There are considerable cultural projects between Canada and the UK, particularly in post-production and visual effects (since both countries are global hubs for this type of work). There is a desire amongst companies to increase cross-border collaboration and project financing. However, they face difficulties obtaining work permits quickly and the government application fees for producers and graphic designers may be prohibitive.

Mobility should not be limited to skilled labour, trades, technicians, intra-company transfers or businesspersons. It should be expanded to young workers and recent graduates. Keeping the CETA category of intra-corporate (company) transferee "Graduate Trainee" will enable Canadian and UK businesses with affiliates in the other country to develop international mobility programs that increase the business ties between the two countries and facilitate investment and skills transferability. We recommend that the requirement for at least 12 months of continuous

experience with the sending entity be reduced to six months to reflect the mobility of recent graduates or management trainees. The Canada-Peru FTA is a precedent for the six-month requirement for intra-company transferees.

The bilateral agreement and arrangements under the International Experience Canada (IEC) program reflects the importance of fostering cultural and economic exchanges. However, the current quota of c issued to young workers between 18-30 years old is not sufficient to meet the demand. We encourage the facilitation of labour market mobility for young people in a free trade agreement.

### **Conclusion**

The CBA Section appreciates the opportunity to engage with Global Affairs Canada. We would be pleased to discuss our recommendations, offer additional insights, and assist with the development and implementation of relevant policies.

Yours truly,

*(Original letter signed by Véronique Morissette for Kyle Hyndman)*

Kyle Hyndman  
Chair, Immigration Law Section