2026 CUSMA review: Enhancing trade negotiation transparency

March 25, 2026

Trade negotiations are in the air, everywhere you look around. They are launched, paused, restarted and concluded. Agreements are reached, then rescinded, ignored or revivified. This past year, the public airwaves have featured more mention of tariffs and negotiations and trade deals than the last thirty years combined. Not since 1988, the year when an entire election was fought over free trade with the United States, has "trade" been a headline concern, and in any event, never for so long.

Yes, an election was fought over trade relations with the United States four decades ago. Trade and economic management are at the heart of democratic governance; democratic accountability requires transparency. And yet, trade negotiations, diplomatic and commercial exercises rolled into one, are steeped in discretion.

In two sentences lies the conundrum at the heart of trade policy in democratic states. The higher the stakes, the more complex the conundrum.

And the stakes have never been higher.

The four stages of gri-, uh, negotiations

But why a "conundrum"?

Broadly speaking, trade negotiations comprise four distinct phases:

1. Planning and preparation, within the government but also including domestic consultation with stakeholders such as provincial governments, companies engaged in trade, industry associations, civil society groups, and unions.
2. Negotiations between two sovereign states.
3. Conclusion, parliamentary review, and ratification.
4. Implementation – usually through an act of Parliament.

Trade negotiation stage one: Planning

You want to buy a car. You identify the size and perhaps the model. You set a budget and put money aside. Then you go to the dealership. You tell the seller what you're looking for, and make sure they know you'll settle for something less because, in reality, you are desperate to have a car. You also tell the seller's brother that although you have a budget, you're flexible and can go above that. Less for more.

No you don't. Of course that's not how even the most basic negotiations roll out.

You state your preferences and a rough budget, and keep the rest to yourself; and then – *and only then* – you start the negotiations.

Now imagine you have a business or a life partner. The "decision" is no longer yours and yours alone: you need to discuss the purchase. If you exceed your credit limit, the bank has to be brought in. You might need a different parking spot at the condo. The car dealership is the only one with a credible mechanic and lots of choice within 300 kilometers.

You get the picture.

Now extrapolate this to a $3 trillion economy covering a continent, almost $1 trillion in *bilateral* trade, fourteen governments, and over 165 years of trade friction and expansion with its closest neighbour and the richest market in the world.

Planning for such an endeavour is not a matter simply of saying publicly, though emphatically, "here are our demands and redlines and deadlines" and expecting all to go well. You need to know what you want, but also what you can give. You need to know where you have room to move, and where to not. You need to know what to ask for and what to expect. You need to talk to those affected, and those who might well lose out. You need to have a team in place that is cohesive, coherent, and that knows not just trade patterns but economic and political pressure points. Ah yes, and then there are thirteen other governments that are looking over your shoulders.

And this is just the planning phase.

Trade negotiation stage two: Negotiations

Recent high-profile travels appear to suggest that trade negotiations are about personal engagement between two old college buddies and side handshakes with this or that "Very Important Person".

Actual trade negotiations are much more prosaic: there are multiple negotiating groups working in parallel – this on services, that on agriculture, a third on rules of origin, and so on – and offers and concessions are made and accepted *provisionally*, with the understanding that nothing is agreed until everything is settled. And there are usually outstanding issues (these are usually highly sensitive deal-breakers) that are left on the table waiting for high-level or political resolution. Prosaic. And complex. It would be unusual to have a *sectoral* settlement when there are other matters on the table. Usually, no photos. Certainly no scrums right outside the negotiating rooms.

Meanwhile, after every session, there are briefings – for parliamentarians, provinces, big exporters, major domestic industries, and other civil society stakeholders – about

how things are going, in fairly broad outlines. If there are specific concessions on the table, the sector affected will be given additional briefings. But the tenor of offers received and concessions given remains fairly general.

Trade negotiation stage three: Parliamentary review

Once negotiations are concluded, the parties can move to initialling an agreed text, legal "scrub", approval by political masters and, since 2008, review by Parliament. The House of Commons has 21 sitting days to debate the treaty before ratification. Parliament does not, however, have the authority to amend the treaty; ratification remains a Crown prerogative.

Trade negotiation stage four: Implementation

A trade agreement typically involves changes in tariffs and other barriers to trade; and this typically requires legislation. It means that Parliament gets another bite at the trade agreement apple, though indirectly.

"Not in the ordinary course"

All this means that, in the ordinary course, Parliament's review and substantive engagement come at the end of a long, complex process. Because of commercial confidentiality and privacy concerns, parliamentarians are not privy to submissions made to the government. And because of diplomatic sensitivities during potentially difficult negotiations, they are not privy to offers made or concessions rejected. Each Member of Parliament (MP) brings to the House their past experience and the interests of their constituency; but the government usually has the deeper well of substantive expertise and the democratic mandate to conduct the affairs of the state.

The challenge is that since February 1, 2025, we have *not* been in "the ordinary course". Is it time to rethink how Parliament engages trade – not just the final product, but the *negotiations* themselves?

The 2026 CUSMA review and other discontents

As a rule, trade agreements do not have an expiry date.

This does not mean that once a country enters into a trade agreement, it is locked in it forever. There is always an exit ramp.

Rather, to allow private enterprises to make long-term investment decisions on the basis of negotiated and established rules and market conditions, trade agreements tend to be timeless.

The Canada-United States-Mexico Agreement (CUSMA), in force as of July 1, 2020, has a "best before" date of sixteen years. And the parties agreed that six years after its entry into force, they would conduct a review to see if it should be extended for another sixteen years. We are now at the six-year mark. And the CUSMA review on which the government of Canada announced consultations last year is about to begin.

Here's the thing: the *context* in which this review is taking place is not *in the ordinary course* even by the unusual features of CUSMA. That is, the review is not taking place against the background of a normally functioning CUSMA, but rather one that is in deep distress. In parallel to the CUSMA review, Canada and the United States are engaged in negotiations to address the tariffs the United States imposed on Canada last year. A "USMCA-compliant" rider was attached to some of these tariffs, which have since been declared illegal; sectoral tariffs remain in place. The United States Trade Representative (USTR) has now launched new investigations, under a new authority, that includes Canada.

So, there is a CUSMA review. There are sectoral tariff negotiations. And we have to start worrying about s. 301 investigations. *Not in the ordinary course*.

It's natural in these circumstances that Canadians, and their elected representatives, are anxious to know what's going on. What is the government hearing? Whose voices are privileged? Which sectors are in danger? Whose jobs will be saved? Do values matter?

What is going on?

Perhaps, a new balance

Parliamentarians, stakeholders, and the public have limited visibility into the views expressed during the consultation process or how those views may be shaping Canada's negotiating position.

These concerns reflect a broader and recurring tension in trade policy. Greater transparency can strengthen democratic accountability, public trust, and parliamentary oversight. At the same time, governments must protect sensitive negotiating positions to preserve leverage in discussions with international partners. Premature disclosure of negotiating strategies risks undermining a country's position at the negotiating table.

As Canada prepares for the 2026 CUSMA review, striking the right balance between transparency and confidentiality will be essential. Clearer communication of objectives, structured parliamentary engagement, and more meaningful consultation could improve governance around the negotiation process and help ensure that Canada enters the review with both a strong mandate and public confidence.

Mechanisms to enhance trade-related governance

We know how things work. We also know we do things better. We know what challenges we face. How we do things better without compromising core values that we must respect is not always easy. Below we canvas a number of practical mechanisms that we have already tried in this country, or that others within the Westminster framework have implemented.

Confidential privy council briefings for opposition leaders

An established way to enhance transparency while safeguarding sensitive information is to provide confidential briefings to opposition leaders under Privy Council terms.

Under this model, leaders of recognized opposition parties would be sworn into the King's Privy Council for Canada (if they are not already – all former ministers are members of the Privy Council for life) and receive regular, confidential briefings on the objectives, constraints, and progress of trade negotiations.

Here is the catch: as Privy Councillors, they would be bound by an oath of secrecy. This ensures that sensitive negotiating positions remain protected, but it also limits the use that an opposition leader can make of the information they have been entrusted for political purposes.

This approach is well established in Westminster systems.

In the United Kingdom, the Leader of the Opposition is typically sworn into the Privy Council and briefed on matters of national importance on "Privy Council terms," allowing governments to share sensitive information while maintaining confidentiality and continuity in the national interest. Canada has previously appointed opposition leaders to the Privy Council, including Ed Broadbent in 1982, Stephen Harper in 2004, and Michael Ignatieff in 2010.

More recently, policy discussions have explored expanding confidential briefings to opposition leaders in other contexts. In 2024, federal officials recommended that leaders of major opposition parties receive regular classified briefings, coordinated by the Privy Council Office, on issues such as foreign interference and national security threats. These briefings would be provided under formal protocols, with access limited to security cleared leaders on a need to know basis.

Applied to CUSMA negotiations, this mechanism would narrow the information gap between the executive and Parliament without risking public disclosure. It would promote informed, non partisan engagement on trade policy, reduce unnecessary politicization, and strengthen democratic accountability while preserving Canada's negotiating position.

Parliamentary oversight of trade negotiations on a confidential basis

Briefing leaders provides some transparency, but probably not enough. At any rate, a "briefing" is static, negotiations are dynamic, and other options might well be more suited to the function.

This is where the National Security and Intelligence Committee of Parliamentarians (NSICOP) model might be interesting.

NSICOP allows security cleared MPs and senators to review classified national security information across government. Members are bound by strict secrecy obligations and operate outside the normal committee system to protect sensitive information, while still providing meaningful parliamentary oversight.

A similar model could be adapted for trade policy. A dedicated parliamentary committee could receive confidential briefings on negotiations such as the CUSMA review. Membership would include representatives from multiple parties and both chambers of Parliament, with members subject to security clearances and an oath of secrecy comparable to that required of NSICOP members.

Adapting this model to trade negotiations would provide parliamentarians with greater insight into negotiating strategy while preserving the confidentiality required for effective bargaining.

Secure parliamentary reading rooms for negotiation documents

Is there a risk that we end up with a two-tiered parliament? What about members whose ridings are directly affected by ongoing negotiations? It is not a given that there is a match between committee membership and economic impact.

Another mechanism already in use in international negotiations is the establishment of secure reading rooms where legislators can review sensitive negotiating documents without risk of public disclosure.

During negotiations for the Transatlantic Trade and Investment Partnership (TTIP), select members of the European Parliament were granted access to draft negotiating texts in secure facilities subject to strict confidentiality rules, including prohibitions on copying or removing documents. This approach allowed legislators to engage meaningfully with the substance of negotiations without undermining the European Union's negotiating position.

A similar approach could be adopted in Canada. Secure reading rooms within Parliament could allow designated individuals to review confidential documents related to the CUSMA review, subject to controlled access and strict confidentiality requirements.

This mechanism would provide parliamentarians with direct insight into the negotiation process while avoiding the risks associated with public disclosure.

Strengthening parliamentary scrutiny of trade agreements

Canada could consider strengthening its broader framework for parliamentary scrutiny of international trade agreements. In recent years, parliamentary committees in other jurisdictions, particularly in the United Kingdom, have called for earlier and more structured legislative involvement in treaty negotiations.

Arising out of the Brexit crisis and in the midst of U.K.-EU negotiations, the U.K. Public Administration and Constitutional Affairs Committee, the House of Lords International Agreements Committee, and the House of Commons International Trade Committee emphasized the need for clearer information sharing, earlier consultation on negotiating objectives, and enhanced opportunities for parliamentary review before agreements are finalized.

These discussions highlight a broader shift toward treating parliamentary scrutiny as an integral part of treaty making, rather than a final stage review once negotiations are complete. Early engagement allows legislators to understand the government's objectives and constraints, identify potential concerns sooner, and contribute constructively without undermining the executive's negotiating role.

Toward a more transparent and resilient trade governance framework

The 2026 CUSMA review will shape the stability of Canada's most important trading relationship and have direct consequences for businesses, workers, and supply chains across the country.

It also brings into focus a recurring challenge in trade policy: balancing the confidentiality required for effective negotiations with the transparency expected in a democratic system. The mechanisms outlined above demonstrate that this balance can be achieved. These tools provide an opportunity to strengthen confidence in Canada's negotiating strategy while preserving the discretion necessary for effective bargaining.

By

Rambod Behboodi, Émilie Chevrier

Expertise

International Trade & Investment

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary
Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa
World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver
1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal
1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto
Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or

guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.