

# Proposals for the Canadian Just Transition Act

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## Overview

Climate change is here. Canada must quickly and dramatically reduce emissions and transition our economy out of the volatile and challenging social and environmental impacts of high-carbon industries. An economy that meets the challenges of climate change – one that is low-carbon, regenerative and circular – is possible if we plan and take action to achieve it.

This requires a “just transition” centred on those most affected by the shift away from high-emitting industries, including workers, communities and those disproportionately negatively affected by industrial development. These people must be included in decision-making, have support in accessing decent work, share evenly in the benefits of climate action, and be shielded equally from any adverse impacts of robust climate action as the economy transforms. The low-carbon economy – and the process of getting there – must work for everyone.

While Canada is taking important steps to reduce emissions – including passage of the *Canadian Net-Zero Emissions Accountability Act* (“NZEAA”) in 2021 and the release of the Emissions Reduction Plan in 2022 – further action is necessary to realize a just transition to a low-carbon economy.

A legal framework is central to planning and implementing an orderly, just, and equitable transition to a low-carbon economy in Canada. Jurisdictions around the world that are leading the just transition – New Zealand, Scotland, Spain and the European Union (EU) – all have legislation grounding their just transition efforts. This brief canvases best practices from these jurisdictions and builds off the IISD report *Making Good Green Jobs the Law: How Canada can build on international best practice to advance just transition for all* to make recommendations for federal just transition legislation here in Canada.

The federal legislation should establish a “top-down” and “bottom-up” scheme to be carried out by a newly-created federal just transition institution as well as regional and sectoral partners. This scheme would be:

- guided by an independent advisory body;
- grounded in social dialogue with tripartite social partners<sup>2</sup> about affected work;
- advancing nation-to-nation relationships;
- inclusive of a broad range of affected stakeholders; and
- informed by the International Labour Organization’s (ILO) guidelines on the just transition<sup>3</sup>.

<sup>1</sup> Corkal, V. (2022) *Making Good Green Jobs the Law: How Canada can build on international best practice to advance just transition for all*, International Institute for Sustainable Development, accessed 3 Oct 2022 [online](#) (“*Making Good Green Jobs the Law*”)

<sup>2</sup> Governments, employers, and workers and their organizations. For more information, see Box 1.

<sup>3</sup> International Labour Organization (2015) *Guidelines for a just transition towards environmentally sustainable economies and societies for all*, accessed 19 Oct 2022 [online](#).

The top-down approach involves a **national just transition strategy** that articulates a vision and objectives for the just transition in Canada, forecasts potential challenges and opportunities arising from the low-carbon transition, and outlines federal measures to ensure the transition is just. The strategy, drafted by the federal government, includes guidance from the advisory body, social dialogue with tripartite partners, and consultation and engagement with broader affected stakeholders.

The bottom-up approach involves the creation of **regional and sectoral just transition plans** by those who are (or will be) directly affected by the transition. These plans would be drafted and implemented by **just transition agencies** in each province and territory and through **just transition agreements** between the federal Minister for Just Transition and sub-national and Indigenous governments, impacted sectors, employers, organized labour, workers and civil society. The plans enable federal funding to be used for regional or sector-specific initiatives that align with the national strategy and just transition principles.

An **independent advisory body** would provide guidance to the federal government on the development of the national strategy, to just transition agencies, with regard to just transition agreements, and on other matters it deems necessary. This body would play an important role to advance social dialogue, including nation-to-nation engagement with Indigenous peoples and consultation with other affected stakeholders. Its membership must be regionally representative of organized labour and workers, impacted sectors (including employers), Indigenous peoples, transition experts, marginalized peoples, and civil society.

The federal government must name a **Minister for Just Transition** and establish a dedicated **just transition institution** to effectively carry out this legislated scheme. Under the direction of the Minister, a new stand-alone **Department of Just Transition** or a **just transition “secretariat”** under an existing department would draft the national strategy, provide technical and legal support to participants in just transition agreements, and coordinate a whole-of-government approach to the transition across federal departments. This institution must have adequate personnel and resources to execute its tasks.

The legislation should also establish **a mechanism to review the Emissions Reduction Plan in NZEAA and other relevant federal legislation** to ensure alignment with the just transition principles and the national strategy and to mitigate any adverse social, cultural, economic, and environmental impacts that arise from federal climate policies. This is important to ensure climate action in Canada is taken in a just and equitable manner and does not undermine other social, cultural, economic, or environmental goals.

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### **Box 1. Important concepts related to the just transition\***

**Tripartite partners** refers to the three primary social partners in the just transition: governments (including Indigenous governments in nation-to-nation relationships), employers, and workers and their organizations. Tripartite social partners are the three core actors that cooperate and engage in dialogue on affected work, labour standards, policies and programs via consultation, negotiation and information exchange. A tripartite approach to just transition policy development ensures cooperation among these three social partners, increased participation from those affected, and improved governance.

**Social dialogue** is the foundation of cooperation between public bodies and tripartite social partners. It refers to all types of “negotiation, consultation or information sharing among representatives of governments, employers, and workers or between those of employers and workers on issues of common interest relating to economic and social policy.”<sup>4</sup> In the context of just transition, this includes “adequate, informed, and ongoing consultation” with affected partners and stakeholders, as per the ILO’s Guidelines on a Just Transition.

**Consultation with affected stakeholders** beyond tripartite social partners helps ensure just transition is inclusive and benefits other groups. It occurs when tripartite partners choose to open dialogue and engagement with other important stakeholders, civil society groups, and communities.<sup>5</sup> This can include local communities, environmental organizations, organizations representing equity-deserving groups, youth organizations, and others. It is a way of gaining wider consensus and ensuring equitable processes that engages communities historically excluded from policy-making and the economy.

**Decent work** is a term that describes work opportunities that provide, among other things, fair income, equality of opportunity, and agency for people’s decision making about their own lives. The ILO’s Decent Work Agenda<sup>6</sup> has four pillars: employment creation, social protection, rights at work, and social dialogue.

**Indigenous peoples are “key agents of change”<sup>7</sup>** in the context of just transition. Including Indigenous governments as tripartite partners, as well as other Indigenous organizations and representatives as affected stakeholders, will be critical to advance Indigenous rights in the context of just transition. The ILO has published specific advice on Indigenous peoples and just transition, and the ILO Indigenous and Tribal Peoples Convention, 1989 (no. 169) provides an additional framework to guide inclusive just transition and labour policy development.<sup>8</sup>

\*Adapted from Corkal (2022)<sup>9</sup>

4 ILO (2013) *National Tripartite Social Dialogue*, accessed 19 Oct 2022 [online](#).

5 Engin, E.M. (2018) *Bipartite, Tripartite, Tripartite-Plus Social Dialogue Mechanisms and Best Practices in the EU Member States*, accessed 19 Oct 2022 [online](#).

6 ILO (2022) *Decent Work*, accessed 19 Oct 2022 [online](#).

7 ILO (2022). *Indigenous Peoples and a Just Transition for All*, accessed 12 Dec 2022 [online](#).

8 ILO (1989). *C169 – Indigenous and Tribal Peoples Convention, 1989 (No. 169)*, accessed 12 Dec 2022 [online](#).

9 Corkal, V. (2022) *Making Good Green Jobs the Law: How Canada can build on international best practice to advance just transition for all*, International Institute for Sustainable Development, accessed 3 Oct 2022 [online](#).

# 1. Purposes and Principles

The legislation should articulate social, economic, and environmental principles to guide the transition to a low-carbon economy.

## *What principles should be included?*

The just transition is an opportunity to re-shape the Canadian economy, but in a manner that advances broader economic, social, and environmental objectives. These include facilitating the achievement of Canada's climate targets, mitigating transition impacts on workers and communities, creating decent, low-carbon jobs, sharing the benefits of the transition broadly, advancing Indigenous reconciliation, addressing inequalities, and establishing a circular, regenerative economy that benefits all.

As the just transition involves actions by a broad number of actors – all levels of Canadian governments, Indigenous governments, employers, organized labour, workers, and civil society – over several decades, it is important to ensure that these actions are all directed towards the same objectives.

## *Examples from other jurisdictions*

The European Union's regulation to establish a just transition fund has a long preamble that sets out the functions of the fund, including supporting the EU's climate objectives, mitigating the adverse effects of the climate transition by supporting the most affected territories and workers concerned, and promoting a balanced socio-economic transition.<sup>10</sup>

Scotland's climate legislation sets out five "just transition principles" and requires the Minister to consider these principles in drafting the national climate plan:

- i) Support environmentally and socially sustainable jobs,
- ii) Support low-carbon investment and infrastructure,
- iii) Develop and maintain social consensus through engagement with workers, trade unions, communities, NGOs, representatives of the interests of business and industry, and such other persons as the Scottish Ministers consider appropriate,
- iv) Create decent, fair and high-value work in a way which does not negatively affect the current workforce and overall economy, and
- v) Contribute to resource efficient and sustainable economic approaches which help to address inequality and poverty."<sup>11</sup>

In preparing the climate plan, Scotland's legislation also requires the Minister to consider the "climate justice principle", that is, taking climate action in ways that help to address inequality and support the people who are most affected by climate change but who have done the least to cause it and are the least equipped to adapt to its effects.<sup>12</sup>

<sup>10</sup> Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund, accessed 15 Sept 2022 [online](#) ("EU Just Transition Fund Regulation").

<sup>11</sup> Scotland, *Climate Change (Emissions Reduction Targets) (Scotland) Act* 2019, accessed 22 Sept 2022 [online](#) ("Scottish Climate Act"), s.35(22) and s.35C.

<sup>12</sup> *Scottish Climate Act*, s.35(22) and (23).

## Why legislate social and environmental principles?

Establishing principles in the legislation will provide clarity to tripartite partners as well as affected stakeholders engaged in the just transition and ensure consistency over time in guiding the work conducted under this legislation. If principles that advance social and environmental purposes are omitted from this legislation, there is a risk that the national strategy and regional and sectoral planning could be focused narrowly on economic interests, such as generating jobs, without addressing broader social and environmental issues.

However, these principles will not serve their purpose unless the legislation explicitly requires that the national strategy and other mechanisms used by government to implement the just transition at the regional and sectoral levels are informed by and advance these principles.

## Recommendations

To ensure that the just transition legislation, and the actions that flow from it, are directed towards the creation of an equitable and robust low-carbon economy, the legislation should:

### 1.1 Establish the following “just transition principles”:

- a) Advance the achievement of the emissions targets in NZEAA as well as the adaptation goals in Canada’s national climate adaptation strategy;
- b) Address the economic, social, cultural, and environmental impacts of a transition to a low-carbon economy, including those on workers in industries impacted by actions to reduce emissions, and ensure those most impacted by high-carbon emitting activities and climate change benefit from the transition;
- c) Support workers and communities impacted by the transition by creating opportunities for and access to decent, fair, and high-value work for all;
- d) Prioritize the needs and voices of Indigenous communities and other marginalized groups;
- e) Democratize, decentralize, and diversify investment in low-carbon infrastructure and support energy sovereignty within Indigenous and other marginalized communities;
- f) Ensure that Indigenous peoples are centred in the transition and advance reconciliation with Indigenous peoples while respecting and upholding their rights, including those affirmed by s.35 of the *Constitution Act, 1982* and those articulated in the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)* and the *ILO Indigenous and Tribal Peoples Convention, 1989 (C169)*<sup>13</sup>;
- g) Develop and maintain social consensus through deliberative engagement with workers, trade unions, communities, Indigenous peoples, NGOs, business and industry representatives, and such other persons as the Minister considers appropriate; and
- h) Support place-based, local, and regenerative economies that enable ecological and social well-being for current and future generations.

<sup>13</sup> Though Canada has not yet ratified this ILO convention, it nonetheless contains authoritative guidance on enabling Indigenous peoples’ inclusion in labour standards, social dialogues, and inclusive just transition.

## 2. National Just Transition Strategy

The legislation should require the Minister to publish, every five years, a national just transition strategy that is informed by and incorporates guidance from an independent advisory body and broad consultation.

The low-carbon transition will affect different parts of Canada in different ways and at different times. The federal government will not drive the transition on its own, and is unable to address all of the impacts that will arise. However, it can – and should – be proactive in developing a strategy that articulates a national-level vision and objectives for a just transition in Canada, forecasts challenges and opportunities along the way, and sets out measures the federal government will take to realize the vision and objectives.

This national strategy is also a place for the government to outline the steps it will take to ensure other relevant government plans, initiatives and agencies – such as the emissions reduction plan under NZEAA, the regional development agencies, and the Regional Energy and Resource Tables – work in coordination to advance the just transition. This includes coordination with and support for provincial and territorial agencies undertaking just transition initiatives.

This strategy will help tripartite partners, other affected stakeholders, and the public understand how the low-carbon transition might affect Canada. Some of these actors might not otherwise have access to this type of analysis. The strategy will outline Canada’s assessment of the potential impacts of the low-carbon transition, with as much specificity as possible (e.g. timelines, regions, sectors, scope) including an assessment of who is likely to be most impacted. This will enable tripartite partners, affected stakeholders, and the public to take action to implement the just transition according to their respective authority, expertise, and interests and in line with the federal vision and proposed federal measures.

### *Examples from other jurisdictions*

In response to just transition provisions in its climate legislation, Scotland has developed a National Just Transition Planning Framework that identifies social, economic and environmental “National Just Transition Outcomes” and outlines a process for the development of sector-specific just transition plans to drive decarbonization and help achieve these outcomes.<sup>14</sup>

Spain’s climate legislation requires certain ministers to develop, every five years, a national just transition strategy that must include:

- i) Identification of the regions, sectors, communities and groups of people vulnerable to the impacts of the low-carbon transition;
- ii) Analysis of the opportunities for the creation of economic activities and employment linked to the transition;

<sup>14</sup> Scottish Government (2021) *Just Transition: A Fairer, Greener Scotland – Scottish Government response to the report of the Just Transition Commission*, accessed 23 Sept 2022 [online](#) (“*Scottish Response to JTC Report*”), pp.29, 31. Scotland’s National Just Transition Outcomes: 1) Citizens, communities and place, 2) Jobs, skills and education, 3) Fair distribution of costs and benefits, 4) Business and Economy, 5) Climate adaptation and resilience, 6) Environmental protection and restoration, 7) Decarbonization and efficiencies, and 8) Furthering equality and human rights implementation and preventing new inequalities from arising.



- iii) Measures the Spanish government will undertake to drive economic activity, employment and occupational training for the just transition;
- iv) Instruments to monitor the labour market during energy transition; and
- v) The framework for the development of regional just transition agreements.<sup>15 16</sup>

New Zealand's climate legislation requires a national emissions reduction plan that includes a strategy to mitigate the impacts that climate action will have on employees and employers, regions, Indigenous communities and wider communities.<sup>17</sup> New Zealand's Emissions Reductions Plan sets out five just transition objectives for this strategy and outlines key policies and actions to achieve these objectives.<sup>18</sup>

### **Who is involved?**

The legislation should require the Minister of Just Transition to draft the national strategy upon the guidance of the independent advisory body and through social dialogue with tripartite partners, and broader consultation with affected stakeholders (e.g. civil society groups). This social dialogue and consultation are necessary to generate social consensus and reflect the diverse perspectives of – and issues facing – Canada. In practice, the newly-created federal just transition institution (see Section 4) will undertake the work of drafting and engagement.

### **A five-year timeframe**

The legislation should require the strategy to be updated (or redrafted) every five years to allow the government to reassess the transition landscape and keep the strategy up-to-date. Five years creates some overlap and consistency between successive governments, but allows new governments to adapt to changing circumstances. This timeframe prioritizes just transition action over the near term, but the strategy should also consider longer-term actions to align with broader trends and Canada's emissions targets on the way to net-zero in 2050. Both Spain and New Zealand require new national strategies every five years.

### **Why legislate a national strategy?**

Legislating a requirement for a national just transition strategy (and associated contents and processes) signals to Canadians that this government is committed to the just transition. The form of that commitment is a mandated schedule of planning and updating the national vision, receiving input from Canadians, and implementing measures to advance the transition. This establishes certainty about the transition in Canada and supports good governance and decision-making by public and private actors.

<sup>15</sup> Spain, *Law on Climate Change and Energy Transition*, Spanish version accessed 22 Sept 2022 [online](#) (“Spanish Climate Law”) article 27.

<sup>16</sup> Government of Spain (2019) *Just Transition Strategy – draft*, Spanish version accessed 15 Sept 2022 [online](#) (“Spanish Just Transition Strategy”).

<sup>17</sup> New Zealand, *Climate Change Response (Zero Carbon) Amendment Act 2019*, accessed 22 Sept 2022 [online](#) (“New Zealand Climate Act”) s.5ZG(3)(c).

<sup>18</sup> New Zealand Government (May 2022) *Aotearoa New Zealand's First Emissions Reduction Plan*, accessed 15 Sept 2022 [online](#), p.60. New Zealand's just transition objectives: 1) Seize the opportunities of the transition; 2) Support proactive transition planning; 3) Enable an affordable and inclusive transition; 4) Build the evidence base and tools to monitor and assess impacts; and 5) Encourage informed public participation.

## Recommendations

To establish a national vision and overarching objectives to guide the just transition in Canada, the legislation should:

- 2.1 Require the Minister, having regard to the just transition principles established under this legislation, to develop a Just Transition Strategy by early 2024 that:
  - a) Sets out the social, economic, and environmental objectives the federal government must achieve within the lifespan of the strategy.
  - b) Identifies the regions, sectors, industries, workers, and people that are vulnerable over the short, medium and long term to the process of achieving Canada's emissions targets and the broader transition to a low-carbon economy.
  - c) Assesses the opportunities over the short, medium, and long term for the creation of economic activity and employment linked to the just transition.
  - d) Assesses opportunities to redress historical and ongoing impacts of high-emission industrial activity on Indigenous and other marginalized communities and ensures they benefit from the transition.
  - e) Articulates the measures – policies, plans, actions, research, supports, training, and standards – the Minister will undertake and implement to advance a just transition as well as the associated costs of implementing these measures.
  - f) Sets out the timelines and trajectories over which the impacts and opportunities from the low-carbon transition are expected to arise and federal measures to help address these impacts and advance these opportunities will be implemented.
  - g) Explains how the strategy will coordinate with the NZEAA emissions reduction plan and other national economic and environmental policies and strategies to ensure that these also advance the just transition.
  - h) Ensures Indigenous rights are respected and upheld, including Aboriginal rights under s.35 of the *Constitution Act, 1982* and UNDRIP.
  - i) Describes the indicators and monitoring mechanisms the Minister will use to evaluate the implementation of the measures and progress toward the objectives in the strategy.
  
- 2.2 Require the Minister, in developing the national strategy, to:
  - a) Obtain guidance from the independent advisory body;
  - b) Consult with Indigenous peoples in order to ensure the strategy affirms and protects their Aboriginal and Treaty rights and the rights protected under UNDRIP;
  - c) Engage with relevant governments, organized labour, workers and employers in line with the principle of social dialogue; and
  - d) Engage with civil society and the broader public.

- 2.3 Require the Minister to lay a report before Parliament every two years on its progress in implementing the national strategy, including implementation of measures, progress toward the objectives, and use of funds.
- 2.4 Require the Minister to update the strategy every five years to accommodate changes to climate policy, global market forces, and the progression of the just transition in Canada.
- 2.5 Establish mechanisms to ensure oversight of progress and meaningful accountability.

The interim action plan that Canada is currently drafting would operate only until the legislated strategy is completed, and would serve as a platform for the legislated strategy.

### **3. Regional and Sectoral Just Transition Planning**

The legislation should create mechanisms to enable just transition planning and implementation by tripartite partners, in collaboration with other affected stakeholders, at the regional and sectoral level.

To achieve a just transition that is effective and socially acceptable, it is imperative that there be mechanisms for tripartite partners and other affected stakeholders to participate in planning and implementing the low-carbon transition in the regions and sectors in which they live and work. To ensure these mechanisms can deliver the goals of the just transition over the long term, they should be established by law and be subject to the principles, criteria, and accountability requirements in the proposed legislation. That is, the legislation must connect the “what” of just transition principles and objectives to the “how” of just transition implementation.

#### ***Existing mechanisms are not yet adequate***

The Regional Energy and Resource Tables (the “Tables”) and Canada’s regional development agencies (“RDAs”) are existing mechanisms the federal government could use to advance regional and sectoral just transition planning. However, they are currently not fit-for-purpose because they were not designed to deliver a just transition and are not explicitly connected to the proposed legislation or to just transition-aligned principles. To help deliver a just transition over the coming decades in a manner that is principled, inclusive, coordinated, and accountable, the Tables and RDAs would need to be modified and integrated into the proposed legislation. More details about how the Tables and the RDAs are currently not suitable to advance the just transition, and what changes might be needed, are included in Appendix A.

#### ***Proposed purpose-built mechanisms***

Given the absence of existing fit-for-purpose mechanisms, this briefing proposes two purpose-built mechanisms for regional and sectoral just transition planning to occur:

- 1) Just transition agencies in each province and territory; and
- 2) Regional and sectoral just transition agreements.

These mechanisms are complementary and have the same objective: to create spaces for tripartite partners to draft and implement just transition plans at the regional and sectoral level using federal (and other) funding, in alignment with the legislated just transition principles and the national strategy, and in collaboration with other affected stakeholders.

Our proposals represent the ideal mechanisms that we think will best achieve just transition planning in Canada. We ask the federal government to pursue this ideal by either establishing our proposed mechanisms or by adapting existing mechanisms to make them fit-for-purpose by incorporating the elements of our proposed mechanisms. We outline these mechanisms below, with the caveat that both require additional analysis to determine their effectiveness.

### ***Mechanism 1: Just Transition Agencies***

The legislation would establish a **just transition agency** in each province and territory to develop and implement just transition plans for that province or territory.

Each agency would undertake multilateral social dialogue and decision-making for the just transition in that province or territory. This is where tripartite partners would come together to develop just transition plans for their regions and sectors. The plans would reflect local circumstances, be developed in consultation with affected stakeholders, and be implemented in alignment with the jurisdiction of participating partners. The legislation would require that the plans align with the legislated just transition principles and the national strategy and be informed by guidance from the independent advisory body. The agencies would also manage and disperse funding (including federal) to implement the plans.

Each agency would be governed by its own board of directors composed of representatives appointed by local tripartite partners including workers and Indigenous peoples, and ideally include representatives of other affected stakeholders. This type of local governance will help alleviate concerns of federal overreach into a process that must be local by nature.

#### **A Canadian model for just transition agencies**

The [Economic Development Agency of Canada for the Regions of Quebec Act](#) establishes a federal agency for the purpose of “promoting the sustainable development and diversification of the economy of the regions of Quebec” (s.3). To advance this purpose, the Act grants the agency powers to “plan, implement, direct, and manage programs and projects, or offer services” (s.11) and enables the minister to create advisory and other committees and enter into agreements with the Government of Quebec and other entities (s.12).

The [Canada Marine Act](#) establishes a board of directors for the oversight of port authorities and allows the federal government, the province and municipalities to appoint one director each (s.14). The rest are appointed in consultation with port users.

## Mechanism 2: Just Transition Agreements

The legislation would permit Indigenous and sub-national governments and other tripartite partners to enter into **just transition agreements** with the federal government. Under the agreement, the participating social partners would prepare and implement a **just transition plan for their region or sector**, consistent with their jurisdiction.

These agreements offer the opportunity for tripartite partners, alone or in “coalitions of the willing” (including with other affected stakeholders), to engage the federal government in smaller multilateral or bilateral partnerships to develop just transition plans for their communities or sectors. This may be necessary to enable increased ambition, greater diversity of initiatives, quicker implementation and more tailored plans than might be possible with the larger multilateral forums. These also enable engagement that better reflects the nation-to-nation relationships between Indigenous communities and the federal government.

### A Canadian model for just transition agreements

The [Species at Risk Act](#) permits the minister, following due consultation, to enter into conservation agreements with any government in Canada, organization or person to benefit a species at risk or enhance its survival in the wild (ss.11-12). The Act also enables funding agreements to contribute towards costs of programs and measures in the conservation agreements (s.13).

## Examples from other jurisdictions

A number of jurisdictions facilitate just transition planning at the regional or sectoral level:

- Spain’s climate legislation requires the Spanish government to enter into just transition agreements with its regional governments based on the framework outlined by the national just transition strategy.<sup>19</sup>
- European Union regulation requires member states to draft “territorial just transition plans” if they wish to receive EU funding for just transition initiatives<sup>20</sup>. The geographic scope of the plans is similar in size to a regional municipality in Canada.
- New Zealand has developed just transition plans for two regions to date (Taranaki and Southland) in response to the planned closure or phase-out of local industrial activities.
- In Scotland, the government has responded to just transition requirements in its climate legislation by undertaking to “co-design and co-deliver” just transition plans for specific sectors of the economy.<sup>21</sup> A draft plan for the energy sector was released in January 2023.<sup>22</sup>

<sup>19</sup> *Spanish Climate Law*, articles 27(e) and 28.

<sup>20</sup> *EU Just Transition Fund Regulation*, article 11.

<sup>21</sup> *Scottish Climate Act*, s.35(20).

<sup>22</sup> Scottish Government (2023) *Draft Energy Strategy and Just Transition Plan - delivering a fair and secure zero carbon energy system for Scotland*, accessed 11 Jan 2023 [online](#).

## The contents of the plans

The legislation should specify the key elements the plans must include to ensure the plans align with the national just transition strategy and objectives, and to establish consistency among plans. Scotland provides a good example of what these elements could be, as it requires its sectoral just transition plans to include:

- i) Context. An analysis of the distribution of benefits and risks of the transition, links to existing policies and strategies, and the identification of key stakeholders;
- ii) Vision. Identify the outcomes the plan seeks to achieve, aligned with the national just transition outcomes. Interim goals and indicators are required to evaluate progress;
- iii) Action plan. Identify, assesses and sequence the actions required to achieve the vision, including key barriers and enablers; and
- iv) Monitoring and reporting. An explanation of how progress toward the outcomes will be monitored and reported on.<sup>23</sup>

Spain has legislated similar requirements for its regional just transition agreements,<sup>24</sup> while the European Union has legislated very specific contents for member states to include in the “territorial just transition plans” they must prepare to access EU funding for just transition initiatives.<sup>25</sup> The federal *Species at Risk Act* also states the types of measures that conservation agreements should include.<sup>26</sup>

## Participation in planning

Both mechanisms create space for Indigenous and sub-national governments and representatives from organized labour, workers, employers or civil society to participate in just transition planning. In Mechanism 1, these actors can participate via representation on the board of directors, engaging with the agency in plan development, and entering into agreements with the agency to undertake just transition initiatives themselves.

In Mechanism 2, interested actors would approach the Minister to enter into an agreement and then form a “lead group” amongst themselves that would undertake broad engagement to develop the plan, draft the plan, and spend funding as part of implementing the plan. In New Zealand, the lead group for regional just transition plans is composed of representatives from local business, trade unions, Māori, community groups, educators, local government, and the New Zealand government.<sup>27</sup>

Ideally, all relevant governments, organizations and persons in a region or sector would participate in the agency or agreement (grounded in a tripartite approach and involving affected stakeholders to maximize inclusivity).

<sup>23</sup> *Scottish Response to JTC Report*, p.42.

<sup>24</sup> *Spanish Climate Law*, Article 28. The just transition agreements must include: an assessment of the state of vulnerability of the affected geographical area or group; commitments of the parties to the agreement, including companies benefiting from transition support measures; measures to implement the transition and achieve the objectives established in the agreement; and a timetable for the adoption of the measures, with measurable targets and monitoring mechanisms.

<sup>25</sup> *EU Just Transition Fund Regulation*, article 11.2.

<sup>26</sup> *Species at Risk Act*, s.11(2).

<sup>27</sup> Venture Taranaki (2022) *Taranaki 2050 Roadmap*, accessed 21 Sept 2022 online: (“Taranaki 2050 Roadmap”).

However, neither option requires all tripartite partners to participate in order to proceed. In any event, the plans created by an agency or via an agreement – and the work to implement those plans – must align with the jurisdiction of the government partners that do participate.

### ***Federal participation***

In Mechanism 1, the Minister is responsible for the agencies while in Mechanism 2, the Minister is a signatory to each agreement. In both instances, non-federal partners have governance authority and are responsible for implementation. The just transition institution would provide technical and legal support where necessary. It would also provide the oversight necessary to identify and address any overlap or conflicts, and support collaboration where there are connections between the work undertaken by different agencies or agreements.

### ***Engagement with the advisory body***

The advisory body could provide guidance to the agencies on how to implement the transition in each province or territory. The advisory body could also provide guidance for regional or sectoral just transition agreements if requested by the Minister.

### ***Funding***

Specific federal funding is critical for realizing a just transition in Canada, although it is not the only source of potential funding. In Mechanism 1, federal funding would flow directly to the agencies to spend in implementing their just transition plans. In Mechanism 2, parties to a just transition agreement can enter a funding agreement with the Minister to ensure that participants have capacity to participate in the planning process and to implement the regional/sectoral plan. In both cases, funding can come from new or existing federal funding streams, and other partners can contribute funding or in-kind services.

### ***Accountability***

The legislation should require the agency and/or parties to just transition agreements to publish an annual report that describes the implementation of the measures in the plan, progress towards the targets and the use of any federal funding. This is an important accountability measure to help ensure funds and resources are being used appropriately.

### ***The mechanisms are complementary***

Mechanism 1 provides a certain, standardized and broad approach; the federal government can move ahead (largely) on its own schedule to create an agency for each province and territory. The agencies will serve as single points of contact for the bulk of just transition planning and initiatives in each province and territory, which will streamline the provision of technical and financial support the federal government provides.

However, while it is important to bring together tripartite partners and affected stakeholders, large multilateral forums can be cumbersome by virtue of their size. Progress could also be slow in provinces with less ambition to realize a low-carbon transition. To mitigate this, Mechanism 2 offers a flexible and localized approach: the opportunity for interested parties to approach the federal government to establish an agreement to develop just transition plans. This would enable increased ambition, greater diversity of initiatives, quicker implementation, and more tailored plans than might be possible with the agencies. It also offers better nation-to-nation engagement with Indigenous communities. The fact that agencies and agreements will both be required to align with and advance the just transition principles and national strategy will minimize conflict, though some coordination may be required to avoid unnecessary overlap.

### **Recommendations**

To enable just transition planning by those closest to and most directly affected by the transition, we recommend that the legislation:

- 3.1 Establish mechanisms – just transition agencies in each province and territory and the creation of just transition agreements for regions and sectors – to enable Indigenous and sub-national governments, organized labour and workers, and civil society to participate in the development and implementation of just transition plans for their region or sector.
- 3.2 Similar to the requirements for plans under NZEAA, set out the contents of a regional or sectoral plan to ensure that participants are working together to achieve the goal of a just transition to a low-carbon economy, including:
  - a) An assessment of the socio-economic circumstances of each region or sector, identifying the challenges and opportunities arising from the low-carbon transition that are specific to the region or sector;
  - b) Measures to address the challenges and opportunities associated with the just transition in that region or sector;
  - c) A timetable for adopting the measures;
  - d) Measurable objectives and targets (that are aligned with Canada’s emissions targets, just transition principles and national just transition objectives) for the plan to achieve, as well as monitoring mechanisms;
  - e) A plan for engaging with relevant Indigenous communities, industry, unions, civil society, and the public;
  - f) An explanation of how the plan will uphold Aboriginal rights affirmed by s.35 of the *Constitution Act, 1982* and Indigenous rights articulated in UNDRIP;
  - g) An explanation of how the plan will mitigate transition impacts on Indigenous and other marginalized communities and redress historical and ongoing impacts of high-emission industrial activity on these communities; and
  - h) An explanation of how the plan supports Canada’s emissions targets and aligns with the national just transition strategy and other regional and sectoral just transition plans.



- 3.3 Permit the Minister to provide funding to agencies and/or enter into funding agreements with parties to just transition agreements to develop and implement just transition plans.
- 3.4 Require that the just transition agencies and/or parties to just transition agreements report to Parliament and the public each year on the implementation of their plans, including measures, progress toward targets, and the expenditure of funds received.

## 4. Just Transition Institution

The federal government should name a minister of the just transition and establish a new, dedicated institution within the government to implement the just transition legislation and coordinate the whole-of-government approach to the just transition.

To effectively implement the just transition in Canada, the federal government needs a dedicated minister to implement the legislation and otherwise champion the cause within government. This establishes an easily identifiable person responsible for coordinating the transition and who is readily accessible to Parliament, tripartite partners, affected stakeholders, and the public for purposes of engagement and accountability. The legislation would set out the powers, duties and functions of the minister, thereby establishing greater certainty about the role of the federal government in the just transition, which supports more transparent and accountable governance.

The minister will need their own office and staff to do the work required by the legislation. This briefing proposes two options for this institution:

- 1) **A new Department of Just Transition.** Legislating the establishment of a new department is preferable because it elevates the importance of the just transition in federal decision-making. A department is a more permanent and future-proof entity that will persist regardless of changes in government or bureaucratic structure. Given the number of departments involved in the transition, it may be better to create a new department to coordinate their involvement in the transition than ask an existing department to add this function to its existing work.
- 2) **A just transition secretariat within an existing department.** Establishing a secretariat within a department such as NRCan or ESDC is another way to provide the minister with the necessary capacity to implement the legislation. If the government proceeds with a secretariat instead of a department (or until a department is established), the secretariat must have the capacity to effectively implement the legislation. It must also have adequate authority and channels of communication to coordinate and collaborate with other departments involved in the transition.

## Examples from other jurisdictions

Jurisdictions implementing the just transition around the world have dedicated ministers, departments and/or secretariats:

- Spain has a Ministry for the Ecological Transition and the Democratic Challenge (and an associated Minister) responsible for developing and implementing legislation and policy regarding climate change, environmental protection, the national energy policy, and the transition to a more productive and ecological society.<sup>28</sup> This ministry is like Canada's ECCC but with a mandate that includes the just transition. Spain has a separate Ministry of Labour.
- Spain's "Just Transition Institute" is an office within the Ministry for Ecological Transition that provides technical, legal and financial support for the development and implementation of the just transition agreements.<sup>29</sup>
- Spain has also established an "Inter-ministerial Commission for Climate and Energy Transition" to monitor and evaluate the implementation of its national strategy. The commission is composed of senior officials from multiple ministries, has decision-making powers and can create working groups to address specific objectives, policies or actions in the strategy.<sup>30</sup>
- Scotland has a Minister of Just Transition, Employment and Fair Work with responsibilities that include just transition planning and delivery, overseeing the work of the Just Transition Commission, and coordinating the sectoral just transition plans and monitoring framework.<sup>31</sup>
- Scotland has a Just Transition Engagement Team within the Climate and Energy Directorate under the responsibility of the Minister for Just Transition, Employment, and Fair Work.<sup>32</sup>
- New Zealand has a "Just Transition Unit", an office within the Ministry of Business, Innovation, and Employment that coordinates the work of the just transition. It works across government, portfolio, and agency boundaries and supports regions undergoing transition planning.<sup>33</sup>

## The role of the just transition institution

This institution would lead all federal government work on just transition, including such functions as drafting the national strategy, coordinating with and supporting the just transition agencies, establishing just transition agreements and providing technical and legal support to participants, and implementing federal transition measures. Its activities would be informed by guidance from the advisory body.

28 Spanish Government (n.d.) *Ministry for the Ecological Transition and the Democratic Challenge: Functions and structure* (translated), accessed 12 Oct 2022 [online](#).

29 *Spanish Just Transition Strategy*, pp.38-39.

30 *Spanish Just Transition Strategy*, p.38.

31 Scottish Government (2022) *Minister for Just Transition, Employment and Fair Work*, accessed 12 Oct 2022 [online](#).

32 Conversation with staff from the Scottish Just Transition Engagement Team, Sept 21, 2022.

33 New Zealand Government (2022) *Just Transition*, accessed 3 Oct 2022 [online](#).

The new institution would also coordinate the whole-of-government approach to the just transition with relevant federal departments (including, but not limited to NRCan, Labour, ESDC, ECCC and ISED), and must have the necessary authority to do so. The minister could do this by creating a forum for senior staff (e.g. deputy ministers) from relevant departments to convene, discuss and make decisions about the transition. The institution must have adequate capacity (staff, expertise, and budget) to be able to effectively execute its tasks. The capacity of the institution must account for the diversity of peoples, regions and economic activity across Canada, including that of Indigenous nations, laws and knowledge.

### **Recommendations**

In order to facilitate the effective implementation of the just transition in Canada, we recommend that the federal government:

- 4.1 Name a Minister of Just Transition to implement the just transition legislation;
- 4.2 In the legislation, set out the duties of the minister to include drafting and implementing the national strategy, supporting the just transition agencies, facilitating just transition agreements, engaging with the advisory body, engaging with tripartite partners and other affected stakeholders, and coordinating the whole-of-government approach to the just transition;
- 4.3 Establish a new institution – a new department or a secretariat in an existing department – to implement the just transition legislation and coordinate the whole-of-government approach to the transition. This institution is the responsibility of the Minister of Just Transition; and
- 4.4 Ensure the institution (whether department or secretariat) has the staff, resources, and budget to effectively carry out its mandate.

## **5. Independent Advisory Body**

The legislation should establish an advisory body to provide independent expertise and oversight to the just transition process. The legislation would also set out the composition of the body and its tasks.

An independent advisory body, established for the specific purpose of advancing the just transition, is important to provide the federal government with impartial guidance and oversight on the progress of the transition. It will facilitate dialogue about the transition by virtue of the discussions that will occur among the diverse members of the advisory body and also by engaging with tripartite partners (including Indigenous nations), civil society organizations, and the general public. This engagement will help gather information about what Canadians want to see in a just transition, identify challenges, opportunities, and solutions, and build social consensus around the pathways chosen to implement the just transition.

The advisory body must have an effective working relationship with the Net-Zero Advisory Body (NZAB) under NZEAA to ensure their actions are complementary and allow discussion and collaboration in areas of shared interest.

## Examples from other jurisdictions

Jurisdictions around the world that are engaged in the just transition have established independent advisory bodies:

- New Zealand’s climate legislation established a Climate Change Commission to provide advice to the government (as well as monitor and report on progress) in relation to both climate change policy and the just transition.<sup>34</sup>
- Scotland established a Just Transition Commission, though not in legislation.
- Germany established the “Coal Commission” in 2018 to make recommendations about how to phase out the coal industry.

## The role of the advisory body

To ensure that work of the advisory body supports the other elements of the legislation (national strategy and regional/sectoral planning), the legislation should outline the functions of the advisory body. This will also ensure clarity and consistency around the role of the body, both now and in future.

New Zealand’s climate legislation sets out the functions of the Commission and outlines the matters the Commission must consider in carrying out its functions.<sup>35</sup>

Scotland’s Just Transition Commission has a mandate to advise the government on the development of sectoral just transition plans and approaches to monitoring and evaluation, undertake meaningful engagement with those most likely to be impacted by the transition, engage and collaborate with experts, and publish an annual report on Scotland’s progress.<sup>36</sup>

Germany’s Coal Commission had a mandate to develop an action plan with measures to address the gap to the 2020 target for the energy sector, measures to meet the 2030 target for the energy sector, and a plan for phasing out the coal industry (including a completion date and necessary legal, economic, social and structural measures).<sup>37</sup>

All of these commissions were/are expected to consult broadly with the public and key stakeholders.

## Membership

The membership of the body should reflect the nature and objectives of the just transition: regional and sectoral implementation, engagement with tripartite partners and other affected stakeholders, supporting workers and communities dependent on high-emissions industries, advancing reconciliation with Indigenous peoples, and ameliorating impacts on marginalized groups. The legislation should require membership from across Canada, Indigenous peoples, organized labour, workers, employers, and civil society, including marginalized groups and representatives of future

<sup>34</sup> *New Zealand Climate Act*, s.5A-1.

<sup>35</sup> *New Zealand Climate Act*, s.5J, 5M & s.5ZC(vii).

<sup>36</sup> Scottish Government (n.d.) *Just Transition Commission – Overview*, accessed 7 Sept 2022 [online](#).

<sup>37</sup> E3G (2019) *The German Coal Commission – A role model for transformative change?*, Accessed 7 Sept 2022 [online](#).

generations. To ensure that the body is appropriately qualified, the legislation should also require members to have expertise and knowledge relevant to the just transition.

The membership of Scotland's and Germany's just transition commissions is not legislated but provides good examples of diversity and expertise.<sup>38 39</sup> New Zealand's climate legislation requires its Climate Change Commission to have expertise and knowledge related to the just transition.<sup>40</sup> The NZEAA requires members of NZAB to have certain expertise and knowledge, though it does not make reference to the just transition.

### Capacity

The advisory body should have capacity to carry out its functions effectively. The Scottish Just Transition Commission is supported by its own secretariat and incurs expenses.<sup>41</sup>

### Government responsiveness

The legislation should require the Minister to report on whether and how the government has implemented the body's guidance – and if not, why not. Such transparency helps the public to understand the government's response to the body's guidance, legitimizes the advisory body as a key part of the just transition, and supports government accountability. This should be legislated to ensure that successive governments remain accountable to this body.

While the commissions of New Zealand, Scotland, and Germany all made recommendations, they appear to have been largely (if not completely) accepted by their respective governments. The Government of Scotland responds directly to reports from its commission.

### Recommendations

To establish an advisory body that is independent, effective, and acceptable to Canadians, we recommend that the legislation:

- 5.1 Establish an independent advisory body to provide the federal government with guidance on the just transition in Canada.
- 5.2 Ensure that the advisory body has the requisite diversity to reflect the purpose of the just transition by including:
  - a) Regional representation to incorporate perspectives from across Canada;

<sup>38</sup> Scotland's Just Transition Commission is composed of: academia (3), economics (2), the energy industry (2), green industry (3) unions (3), environmentalists (1), and social justice advocates (1). See: Government of Scotland (July 2022) *Just Transition Commission: member biographies*, accessed 15 Sept 2022 [online](#).

<sup>39</sup> Germany's Coal Commission included representatives from: energy sector (4), coal mining regions (7), business & industry (5), enviro associations (3), unions (3), scientific community (5), parliament (3), and administration (1). There were no youth reps, which has been cited as a possible reason why youth were the most vocal opponent of the outcomes. See: E3G (2019) *The German Coal Commission – A role model for transformative change?*, Accessed 7 Sept 2022 [online](#).

<sup>40</sup> *New Zealand Climate Act*, s.5H(1) requires "technical and professional skills, experience and expertise in the environmental, ecological, social, economic, and distributional effects of climate change and policy interventions."

<sup>41</sup> Scottish Government (2022) *Just Transition Commission*, accessed 3 Oct 2022 [online](#); Scottish Government (2021) *Costs incurred by the Just Transition Commission: FOI release*, accessed 3 Oct 2022 [online](#).

- b) Organized labour and workers to speak to the needs of workers;
- c) Employers;
- d) Indigenous peoples to include Indigenous knowledge in advice and planning and to help ensure that the transition mitigates the social inequalities facing Indigenous peoples;
- e) Academics with expertise in economy-wide labour transitions;
- f) Educators with expertise in program design and emerging technologies; and
- g) Civil society (such as youth, environment, social justice) to ensure that broad societal perspectives are present and marginalized groups are represented.

5.3 Ensure the advisory body is qualified to provide guidance to the government by requiring the members, collectively, to have knowledge and expertise related to the just transition.

5.4 . Specify the functions of the advisory body, including:

- a) Provide guidance to the federal government about the development and implementation of the national just transition strategy;
- b) Provide guidance to just transition agencies or to participants in just transition agreements;
- c) Conduct engagement with those directly affected by the transition;
- d) Engage in research, social dialogue and consultation, and draft publications on transition issues of its choosing;
- e) Collaborate effectively with the Net Zero Advisory Body;
- f) Report to the government, at the request of the Minister, on matters related to the just transition; and
- g) Report annually to the public on the status of the just transition in Canada and progress towards the objectives in the national just transition strategy.

5.5 Require the Minister to respond to guidance received from the advisory body within a reasonable period of time and explain whether the government's actions in implementing the just transition deviated from the guidance of the advisory body and why.

## 6. Centering Indigenous Peoples

The legislation, and the advancement of the just transition in Canada generally, should establish a central role for Indigenous peoples in planning and implementing the just transition.

For the transition to a low-carbon economy in Canada to be truly “just”, the involvement of Indigenous peoples must go beyond being consulted. Indigenous governments must be leading partners in the transition and have the capacity to participate effectively. Indigenous laws, governance structures and knowledge must find expression in the national just transition strategy and in regional and sectoral just transition plans. Indigenous rights, self-determination and sovereignty over their territories must be recognized and respected. The transition must address the historic role of Canadian governments and the private sector in creating dependency on fossil fuels in Indigenous communities. Further, the transition must repair the negative impacts of fossil fuel and resource

extraction on Indigenous lands, waters and communities and support the role of traditional and cultural practices (some of which may exist outside the wage-economy) in economic diversification.

### *Examples from other jurisdictions*

New Zealand provides useful examples of how to involve Indigenous peoples in the just transition:

- New Zealand’s climate legislation requires the Minister to develop a strategy to mitigate the impacts of climate action on iwi and Māori, amongst other groups.<sup>42</sup>
- In its report to the government with advice on the development of the Emissions Reduction Plan, the Climate Change Commission drafted separate chapters with distinct recommendations for the just transition in relation to the Māori and to New Zealand as whole.<sup>43</sup>
- The Emissions Reduction Plan includes separate chapters for the Māori Transition and for the general Equitable Transition, creating objectives and actions for each. The plan recognizes the unique considerations that are relevant to the Māori in participating in the transition.<sup>44</sup>
- The iwi/Māori are considered one of the seven “pou” (pillars) that must be included in the local “lead group” that undertakes regional just transition planning.

These examples acknowledge that the low-carbon transition will not affect Indigenous peoples in the same manner as non-Indigenous peoples and that additional, Indigenous-specific actions must be taken to support the inclusion of Indigenous peoples in the transition.

### *Recommendations*

The federal government should engage in social dialogue with Indigenous governments and consult with Indigenous peoples, organizations, academics, and legal experts to ensure that this legislation reflects Indigenous perspectives and interests. At a minimum, the legislation should:

- 6.1 Include just transition principles that reflect the importance of protecting and advancing the expression of Indigenous rights (Aboriginal and Treaty rights and rights under UNDRIP) and ameliorating the social inequalities that Indigenous peoples face;
- 6.2 Require consultation with Indigenous peoples and the inclusion of Indigenous knowledge and laws in developing the national just transition strategy;

<sup>42</sup> *New Zealand Climate Act*, s.5ZG(3)(c). In Māori, “iwi” means extended kinship group, tribe, nation, people, nationality, race, and often refers to a large group of people descended from a common ancestor and associated with a distinct territory.

<sup>43</sup> New Zealand Climate Change Commission (2021) *Ināia tonu nei: a low emissions future for Aotearoa*, accessed 22 Sept 2022 [online](#), see chapter 19. At p.326, the Commission made three overarching recommendations for the government work with the Māori to develop: 1) a strategy to ensure the principles of the Treaty of Waitangi are embedded in subsequent emissions reduction plans; 2) a mechanism to build authentic and enduring partnerships that result in equitable outcomes for Māori; and 3) a strategy, including timebound measures for progress, to advance a Māori-led approach to an equitable transition to a low-emissions society for Māori and the Māori economy.

<sup>44</sup> New Zealand (May 2022) *Towards a productive, sustainable, and inclusive economy: Aotearoa New Zealand's First Emissions Reduction Plan*, accessed 22 Sept 2022 [online](#), see chapter 4. At pp.52-53, the plan identifies the following actions that the government will take: 1) Creating a “platform” for Māori climate action that provides a governance presence and strategic advice for future climate mitigation and adaptation plans; 2) Create mechanisms for Māori community representatives to engage at national and local levels and provide input on climate policy and actions; 3) Support the development of a Māori climate strategy and action plan; and 4) Provide funding for Māori climate initiatives, boost capacity to shape climate policy, education, and action, and develop data and understanding of impacts and opportunities for Māori businesses.

- 6.3 Ensure that Indigenous governments, organizations and peoples have opportunities to participate in just transition agencies and regional and sectoral just transition agreements;
- 6.4 Ensure funding is available for Indigenous governments, organizations and peoples to have capacity to participate in just transition agencies and agreements and carry out just transition initiatives in their communities; and
- 6.5 Include Indigenous peoples from across Canada on the independent advisory body.

## 7. Align federal climate plan and relevant federal legislation with the Just Transition

The legislation should establish a mechanism to identify and mitigate any adverse economic, social, cultural and environmental impacts that arise from the policies in the NZEAA emissions reduction plan. It should also enable the responsible minister to ensure that other relevant federal legislation and plans advance the just transition.

A key principle of the just transition is to minimize the negative impacts of actions to address climate change and ensure they do not land on those least able to bear them, for example, groups that currently face social inequalities or have faced historical marginalization.

The federal government has implemented this principle by making the carbon price revenue-neutral. However, for federal climate action more broadly to align with the just transition, this principle should be applied to the NZEAA emissions reduction plan. This will ensure it considers and addresses the social, cultural, economic and environmental impacts of this plan on employers, employees, regions, sectors, Indigenous peoples and marginalized groups. Mitigating these impacts will help make federal climate action more politically and socially acceptable, addressing a key barrier to ambitious climate action.

### *Examples from other jurisdictions*

Other jurisdictions have legislated the consideration of just transition considerations directly into their climate plans. For example:

- New Zealand’s climate legislation requires the Minister to create an emissions reduction plan that includes “a strategy to mitigate the impacts of climate action on employers, employees, regions, iwi and Māori, and wider communities”.<sup>45</sup>
- Scotland’s climate legislation sets out five “just transition principles” and requires the Minister to consider these principles in drafting the national climate plan:
  - i) support environmentally and socially sustainable jobs,
  - ii) support low-carbon investment and infrastructure,
  - iii) develop and maintain social consensus through engagement with workers, trade unions, communities, NGOs, representatives of the interests of business and industry and such other persons as the Scottish Ministers consider appropriate,

<sup>45</sup> New Zealand, *Climate Change Response (Zero Carbon) Amendment Act*, s.5ZG.



- iv) create decent, fair, and high-value work in a way which does not negatively affect the current workforce and overall economy, and
- v) contribute to resource efficient and sustainable economic approaches which help to address inequality and poverty.<sup>46</sup>
- Scotland’s climate legislation also requires the Minister to “explain how the policies and proposals in the national climate plan are expected to affect different regions and sectors of the economy, including employment” and “set out the proposals and policies for supporting the workforce, employers and communities in those sectors and regions”.<sup>47</sup>

### ***Other federal legislation and actions***

A range of other federal legislation, policies and plans will also have a role in Canada’s transition to a low-carbon economy. It is important that the federal government ensure that all relevant federal legislation, policies and plans advance the transition in a manner that is just and equitable.

### ***Recommendations***

To ensure that federal laws, policies and plans help advance the just transition, we recommend the legislation:

- 7.1 Requires the minister responsible for the just transition legislation to identify federal laws, policies, and initiatives that are relevant to the low-carbon transition and to take steps to ensure they are aligned with the just transition principles and national strategy.

<sup>46</sup> *Scottish Climate Act*, s.35C.

<sup>47</sup> *Scottish Climate Act*, s.35(20), (22), (24).

## Appendix A – Regional Energy and Resource Tables & Regional Development Agencies

The Regional Energy and Resource Tables (the “Tables”) and the federal regional development agencies (“RDAs”) are existing initiatives that could be leveraged to advance the just transition in Canada. However, to do this effectively, they must be integrated into the proposed legislation, so that they advance the just transition principles and national strategy and are subject to the governance and accountability requirements in the legislation. Importantly, they must also be modified as their current design would not effectively advance the social, environmental, and economic objectives of the just transition.

This appendix outlines issues with the current design of the Tables and the RDAs that would need to be addressed in order to ensure full alignment with principles and international best practices of just transition.

### *Regional Energy and Resource Tables*

The Regional Energy and Resource Tables are currently being established between the federal government and each province and territory in Canada. The Tables are an attractive mechanism to advance the just transition because they are already in the process of being established and serve to promote provincial/territorial autonomy. However, in terms of alignment with just transition principles and objectives, they are not a satisfactory mechanism – particularly if they are the only mechanism for doing so – for the following reasons:

**i) No guarantee of a Table**

There is a risk that not every province may agree to establish a Table, including those that need the transition most: Alberta and Saskatchewan. If the Tables are the only places for just transition planning, communities that want to pursue just transition initiatives in the hold-out provinces will be left without options.

**ii) Limited opportunity for engagement**

The Tables have already started in a manner that does not align with common understandings of the just transition nor adequately advance reconciliation.

Where Tables do exist, not all tripartite partners have been included to date and their future participation has been characterized primarily as engagement and provision of advice and input. Such a level of participation is not sufficient to ensure the necessary social dialogue among tripartite partners that characterizes the just transition and enables those directly affected by the transition to participate in planning and implementation. Nor does it reflect the need for nation-to-nation engagement with Indigenous communities that meaningfully respects Indigenous, Aboriginal and Treaty rights and sovereign authority. If this were the case, all tripartite partners would be able to participate and work with federal and provincial/territorial governments in a process of social dialogue from the start, to identify the priorities for each Table.

**iii) Limited scope**

The Tables focus on natural resources, which only contribute to the subset of the economic activities that make up a true just transition.

A low carbon economy involves a much broader range of economic activities (including in the service, tech, tourism, agriculture, and conservation industries). A focus on the extraction and processing of natural resources would limit the opportunities certain groups may wish to pursue. The scope of the tables must be broader, and/or a separate mechanism must be put in place to pursue other types of economic activities. It is our understanding that the scope of these Tables is also limited because there are no requirements to consider or advance social justice or ecological principles or objectives, as discussed next.

**iv) A lack of guiding principles**

Based on publicly available information, it is not clear what, if any, just transition principles will be used to guide the work of the Tables, especially if the just transition legislation is not explicitly connected to the Tables.

Without a set of guiding just transition principles to ensure the Tables advance the necessary environmental, social, and economic objectives, there is significant risk of lack of consistency and alignment towards common objectives, including helping to achieve national and subnational climate targets, addressing social and economic disparities and inequities, and advancing reconciliation.

**v) Lack of binding objectives or accountability mechanisms**

The Tables are not legally mandated and there appear to be no binding objectives that must be achieved through the Tables. There are currently no requirements that the Tables report, or otherwise be accountable, to Parliament or the public for their actions and spending.

Given what is at stake and the amount of money that must be spent on the just transition, there needs to be a reliable mechanism for the Tables to demonstrate that any funding they receive is used appropriately, not only in line with just transition principles and objectives but also to ensure financial flows are consistent with the Paris Agreement.

**vi) Longevity**

As a creation of policy, these Tables are at risk of being disbanded upon a change of minister, government, or interest of participants, which could do away with a key driver of the just transition. Legislation is better able to ensure the longevity of mechanisms that need to last at least the next 30 years as Canada moves to develop an inclusive low-carbon economy.

## Regional Development Agencies

The regional development agencies are a good model for the just transition agencies that we suggest as a mechanism for regional and sectoral just transition planning. The Quebec, Atlantic, Prairie and BC RDAs are established by legislation, while other RDAs are established by order in council.<sup>48</sup> The legislated RDAs have the types of purposes, powers and duties that support collaboration, planning, investment and accountability regarding job creation and economic development. These are the types of federal activities that are necessary in the just transition; they just need to be guided by just transition principles and objectives and coordinated across regions.

As currently established, the RDAs would not be well placed to advance the just transition as contemplated by this legislation because they are currently not fully aligned with the economic, social, and environmental principles of the just transition, and because they would not be integrated into the national just transition strategy or responsive to an independent advisory body. Further, each RDA falls under the responsibility of a different Minister, which would make coordination across the whole of the federal government difficult.

These RDAs could be the mechanisms to implement the proposed legislation if the legislation integrates all of the RDAs, including both legislated and non-legislated, to ensure that they:

- Advance the just transition principles and the national strategy, and that these are embedded in their mandates;
- Carry out tripartite social dialogue, consultation with other affected stakeholders, and public engagement to develop just transition plans for their relevant regions and sectors;
- Be guided by advice from the independent advisory body;
- Be incorporated under the responsibility of the Minister of Just Transition; and
- Be supported by a federal just transition institution.

<sup>48</sup> *Economic Development Agency of Canada for the Regions of Quebec Act*, SC 2005, c 26; *Atlantic Canada Opportunities Agency Act*, RSC 1985, c 41; *Western Economic Diversification Act*, RSC 1985 c 11.