



BILLION DOLLAR BUYOUT:

How Canadian taxpayers bought a climate-killing pipeline and Trump's trade deal supports it

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EXECUTIVE SUMMARY

In the summer of 2018, the Trudeau government invoked the term “national interest” to justify buying the Trans Mountain oil pipeline system from Texas-based Kinder Morgan. The pipeline expansion, if completed, would significantly increase exports of Alberta bitumen. Observers scratched their heads. Why would a government that says it's committed to urgent climate action, facilitate the growth of Alberta's oil sands, Canada's greatest and fastest growing source of carbon pollution? The purchase raises other important questions: Should Canadians care that Ottawa bought a financially dubious oil pipeline? What do Canadians get for this extraordinary purchase? And how much will the purchase ultimately cost taxpayers?

Ottawa bought the pipeline while the United States, Mexico and Canada were negotiating the new North American Free Trade Agreement (NAFTA) referred to as the United States-Mexico-Canada Agreement (USMCA) by U.S. President Donald Trump and called the Canada-United States-Mexico Agreement (CUSMA) by Ottawa*. This replacement deal for NAFTA includes a chapter on state-owned enterprises, an energy side letter, and an exemption for the Trans Mountain pipeline system. If ratified, the USMCA will likely continue into the 2030s, the very window during which the Intergovernmental Panel on Climate Change (IPCC) says countries must rapidly change all systems to avert climate catastrophe.

This report examines the implications of the USMCA's provisions on pipelines – specifically the Trans Mountain expansion – and explores whether the USMCA's energy measures enhance or reduce Canada's ability to meet its climate targets. We argue that the state-owned enterprise exemption and the energy side letter simultaneously reinforce a business-as-usual approach and protect the extraordinary measures and extreme cost the Canadian government has taken to continue exporting bitumen.

The report has three sections. The first section reviews the Canadian government's purchase of the Trans Mountain pipeline system. The second section outlines why the purchase was a bad investment and how the USMCA will continue to enable the government's poor decision-making about the pipeline. The final section focuses on the implications of the USMCA's energy goal of integrating Canadian oil and natural gas into the U.S. market. The report's findings are summarized below.

Canada bought the Trans Mountain Corporation (TMC) pipeline system for \$4.4 billion after Kinder Morgan announced it would abandon its planned expansion of the 65-year-old system. No private sector buyer could be found. Primarily carrying diluted bitumen from the Alberta oil sands, the mainline runs 1,150 km[~] pipeline from Edmonton, Alberta to Burnaby, British Columbia with a spur line to Washington state. The expansion would almost triple the system's capacity. The expansion runs



**Note from the author: The Canadian government calls the agreement the CUSMA, but this report will refer to the agreement as USMCA to emphasize Washington's dominant role in its framing.*

through several Indigenous nations that oppose the project because it threatens their sovereignty and ecological security.

The Trans Mountain expansion could enable the Alberta oil sands to substantially increase production, which would increase Canada's carbon emissions by up to 13 to 15 megatonnes (Mt) a year. Adding 13 to 15 Mt to Canada's total emissions output through this pipeline expansion would make it even more difficult for Canada to meet its international climate target. Ironically, the Trudeau government purchased the Trans Mountain pipeline in part to coax Rachel Notley's NDP government in Alberta to participate in Canada's national climate plan. Alberta is Canada's oil and gas powerhouse – and its greatest source of carbon emissions. To bring Alberta onside, the Trudeau government promised to get an oil pipeline built to tidewater. The government stuck to this promise and now owns a costly and financially troubled pipeline, even after Alberta's NDP government deserted the national climate plan. Jason Kenney, Alberta's new Conservative Premier, promises to wage a confrontational battle against the national climate plan and is encouraging other provinces to do as well. In addition to the pipeline's financial and climate costs, the expansion carries serious risks to marine life.

The federal government justified the purchase as a "good investment," although the project is anything but. While the Canadian and Alberta governments claimed the pipeline expansion would unlock higher prices for heavy oil in Asia, this is not supported by existing evidence. The numbers the federal and Alberta governments cite regarding job creation and GDP growth have been shown to be severely inflated. Furthermore, Ottawa greatly overpaid for the pipeline. As a result, the expansion is unlikely to yield the necessary return on the highly risky investment. Canadian taxpayers are currently footing the bill for this highly dubious venture and financially assisting fossil fuel development. There is significant uncertainty about how much the expansion will ultimately cost.

Because the Trans Mountain pipeline is government-owned, it will be subject to USMCA's Chapter 22, which lays down neoliberal rules that restrict state-owned enterprises from competing with private, for-profit companies. Historically, Crown Corporations, freed from such restrictions, were crucial for Canada's development and may well be vital again for effective climate action. Because the project is not currently commercially viable, Canada sought a Chapter 22 exemption for the Trans Mountain pipeline and got it. The exemption allows Ottawa to give "non-commercial assistance" to the

pipeline even though it may adversely affect the United States. The United States, for example, could not retaliate even if Canada's subsidies hurt a competing U.S. pipeline proposal.

The exemption also contains wording that favours Indigenous share ownership in the pipeline. The exemption allows the government to sell the pipeline to Indigenous buyers at a greatly reduced rate. At least one Indigenous group has considered buying a 51 per cent stake in the project before it is even completed. Several First Nations continue to oppose the project and Indigenous ownership would be used to try to overcome their opposition. At the same time, the government must re-do consultations with 117 Indigenous groups before construction on the expansion can begin.

The USMCA's exemptions for the Trans Mountain pipeline will allow Ottawa to subsidize the line. This directly contradicts the Trudeau government's narrative that the expansion will be commercially viable. The National Energy Board (NEB), for example, approved subsidized tolls for the existing Trans Mountain pipeline. Since the USMCA has not yet been ratified and NAFTA remains in force, the NEB's approval violates NAFTA. The Trans Mountain purchase also contravenes Canada's commitment to phase out fossil fuel subsidies.

NAFTA will govern trade and investment relations among Canada, the U.S. and Mexico until all three countries ratify the USMCA. Ratification is likely, but far from certain. Until ratification, NAFTA's energy chapter, including its energy proportionality rule, will remain in force.

In a major step forward, the USMCA will drop NAFTA's proportionality rule that obliges Canada to make the current proportion of its energy available for export to the United States. Instead, Canada signed a bilateral energy side letter with the U.S. that agrees to integrate Canadian energy resources into the U.S. market. This annex contradicts Foreign Affairs Minister Chrystia Freeland's portrayal of ending proportionality as a gain for Canadian energy sovereignty and it could constrain future effective climate action in Canada.

In short, the USMCA is not the agreement we need to address the climate crisis. While the state-owned enterprise exemption and the energy side letter have received little attention or scrutiny, they have important implications for Canada's energy and climate future.

Read the full report online at www.canadians.org/billion-dollar-buyout