

# Canada-U.S. Trade Policy Beyond North America

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## Canada's Trade Policy in the Americas: A Legal Point of View

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Canada-United States Law Institute  
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## The Americas



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## Canada's Global Commerce Strategy

- Document on DFAIT web-site “*Seizing Global Opportunities: A Global Commerce Strategy for Securing Canada's Growth & Prosperity*”
- Supporting Canadian companies who are engaged in global commerce
  - who sell abroad
  - who invest in production facilities
  - who form partnerships with suppliers, producers, distributors and innovators located around the world

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## Canada's Global Commerce Strategy (cont'd)

- Boost Canadian commercial engagement in global value chains
- Secure competitive terms of access to global markets and networks for Canadian businesses
- Increase FDI (two way)
- Forge stronger links between Canada's science and technology community and global innovation networks

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## Topics

- Free Trade Agreements
- Bilateral Investment Treaties
- Science & Technology Agreements
- Double Taxation Treaties (Prevention Thereof)
- Air Agreements
- Cuba
- Other

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## Free Trade Agreements in Americas

### Canada

#### In Effect

Chile  
Costa Rica

#### Signed

Peru  
Colombia

#### Under Negotiation

Dominican Republic  
Honduras  
El Salvador  
Guatemala  
Nicaragua  
CARICOM Countries

### United States

#### In Effect

Chile  
Costa Rica  
Dominican Republic  
Honduras  
El Salvador  
Nicaragua  
Guatemala  
Peru

#### Under Negotiation/Renegotiation

Panama  
Colombia

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## Canada-Chile Free Trade Agreement

- Canada's 2<sup>nd</sup> (3<sup>rd</sup>) FTA
- In force July 5, 1997
- Comprehensive free trade agreement
- Original intention was that Chile would join NAFTA
- No anti-dumping/countervailing duty
- No NAFTA Chapter 19 dispute settlement mechanism
- No prohibition of duty drawback
- Rules of Origin – prohibition re transshipment

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## Canada-Costa Rica Free Trade Agreement

- In force November 1, 2002
- Comprehensive free trade agreement
- NAFTA Light
  - No Government Procurement Chapter

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## Canada-Peru Free Trade Agreement

- Signed May 29, 2008
- Less opposition
- Comprehensive agreement
- No IPR chapter
- Chapters on labour (16) and employment (15)

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## Canada-Peru Free Trade Agreement (cont'd)

- Comprehensive side agreements on labour and employment
- Procurement chapter (14) (even though Peru not a signatory to WTO AGP)
- Investment chapter (8) (includes arbitration clause)

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## Canada-Colombia Free Trade Agreement

- Signed November 21, 2008
- Opposed by NDP
- Opposed by the United Steelworkers (USW)  
Canada National Director
- Canada's new model precedent FTA (improves  
NAFTA provisions)

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## Canada-Colombia Free Trade Agreement (Cont.)

- Selection of notable provisions
  - Goods Tariff Elimination / Reduction Schedule up  
to 17 years (and some outright exclusions from  
tariff reduction)
  - Allows for increases in tariffs
  - Special Safeguard transition period 10 years
  - Includes Government Procurement Chapter
  - Evolved Investment Chapter (not identical to USA  
FTA improvements)

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## Canada-CARIBCOM Free Trade Agreement

- Under negotiation
- CARIBCOM members: Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Lucia, St. Kitts & Nevis, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago

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## Canada-CARIBCOM Free Trade Agreement (cont'd)

- Canada obtained a MFN waiver at the WTO for CARIBCOM up to 2011, but have indicated waiver will not be renewed
- Dr. Bauch of Jamaica has stressed need for development arrangement
- Jamaica has traded with Canada under the Canada/Commonwealth Caribbean Trade Arrangement since 1986

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## Canada-Panama Free Trade Agreement

- Negotiations started in 2008 (after signing of new air transportation agreement)
- Canada hopes for quick conclusion (in 2009)
- Panama has FTAs with El Salvador (2002), Taiwan (2004), Singapore (2006), Chile (2008) and United States (pending)
- Strategic partnership

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## Bilateral Investment Treaties in the Americas

- **Argentina – U.S., Canada**
- Barbados – Canada
- Bolivia – U.S.
- Costa Rica – Canada
- **Ecuador – U.S., Canada**
- El Salvador – U.S.
- Grenada – U.S.
- Haiti – U.S.
- Honduras – U.S.
- Jamaica – U.S.
- Nicaragua – U.S.
- **Panama – U.S., Canada**
- Peru – Canada
- Trinidad & Tobago – Canada
- **Uruguay – U.S., Canada**
- Venezuela - Canada

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## Foreign Investment Protection and Promotion Agreements in the Americas

- Canada-Argentina FIPPA (signed April 29, 1993)
- Canada-Trinidad & Tobago FIPPA (signed July 8, 1996)
- Canada-Barbados FIPPA (signed January 17, 1997)
- Canada-Ecuador FIPPA (signed June 6, 1997)
- Canada-Venezuela FIPPA (signed January 28, 1998)
- Canada-Panama FIPPA (signed February 13, 1998)
- Canada-El Salvador FIPPA (signed May 31, 1999)
- Canada-Uruguay FIPPA (signed June 22, 1999)
- Canada-Costa Rica FIPPA (signed September 29, 1999)
- Canada-Peru FIPPA (signed June 20, 2007)

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## At FIPPA Exploratory Stage

- Canada has indicated that the following countries are being considered for FIPPA negotiations
  - Bolivia
  - Cuba
- Demonstrates lack of consideration of Americas
- What about Brazil, Bahamas, C4, Caribbean ?

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## Canada-Brazil Agreement on Science, Technology and Innovation Cooperation

- Signed November 17, 2008
- Canada to contribute \$1.5 Million (over 2 yrs)
- Purpose of Agreement:
  - increase collaborative efforts in research and development activities
  - lead to the commercialization of new ideas.
  - mutually beneficial opportunities are in aerospace, agriculture, biotechnology, and renewable energies

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## Canada's Double Taxation Treaties in Americas

### Signed and/or In Effect

Argentina (1993)  
Barbados (198)  
Brazil (1985)  
Chile (1998)  
Colombia (2007)  
Dominican Republic (1976)  
Ecuador (2001)  
Jamaica (1978)  
Mexico (1991 / 2007)

Peru (2001, EIF 2003)  
Trinidad & Tobago (1995)  
Venezuela (2001 signed, EIF 2004)

### Under Negotiation/Renegotiation

Costa Rica  
Cuba

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## Air Agreements Recently Signed by Canada with Countries in the Americas

- Countries
  - United States (March 12, 2007)
  - Mexico (December 14, 2007)
  - Barbados (February 8, 2008)
  - Panama (June 13, 2008)
  - Dominican Republic (September 5, 2008)

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## Air Agreements Recently Signed by Canada with Countries in the Americas (cont'd)

- Consistent with Canada's Blue Sky Policy
  - Airlines from both countries can serve any point in each other's territory
  - Strong safety and security provisions
  - Key to facilitating growth in trade, investment and tourism

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## Air Agreements Recently Signed by Canada with Countries in the Americas (cont'd)

- Many other countries have previously negotiated agreements, including Antigua, Antilles, Argentina, Aruba, Bahamas, Barbados, Chile, Costa Rica, Colombia, Cuba, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Jamaica, Mexico, Netherlands, Nicaragua, Panama, Peru, Saint Lucia, St. Kitts & Nevis, Trinidad & Tobago, Venezuela

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## Cuba

- Canada should consider FTA negotiations with Cuba
- Long history of trade relations
- Need to prepare for evolution in relationship

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