

Canada-U.S. Relations

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The United States and Canada typically enjoy close relations. The two countries are bound together by a common 5,525-mile border—“the longest undefended border in the world”—as well as by shared history and values. They have extensive trade and investment ties and long-standing mutual security commitments under NATO and North American Aerospace Defense Command (NORAD). Canada and the United States also cooperate closely on intelligence and law enforcement matters, placing a particular focus on border security and cybersecurity initiatives in recent years.

Although Canada’s foreign and defense policies usually are aligned with those of the United States, disagreements arise from time to time. Canada’s Liberal Party government, led by Prime Minister Justin Trudeau, has prioritized multilateral efforts to renew and strengthen the rules-based international order since coming to power in November 2015. It expressed disappointment with former President Donald Trump’s decisions to withdraw from international organizations and accords, and it questioned whether the United States was abandoning its global leadership role. Cooperation on international issues may improve under President Joe Biden, who spoke with Prime Minister Trudeau in his first call to a foreign leader and expressed interest in working with Canada to address climate change and other global challenges.

The United States and Canada have a deep economic partnership, with approximately \$1.4 billion of goods crossing the border each day in 2020. Bilateral trade relations have been somewhat strained in recent years, however, due to the countries’ differing trade policy objectives. Canadian officials expressed particular frustration with the Trump Administration’s insistence on renegotiating the 1994 North America Free Trade Agreement (NAFTA), which resulted in the United States-Mexico-Canada Agreement (USMCA), and its imposition of tariffs on Canadian steel and aluminum. The Biden Administration may take a less confrontational approach to trade relations with Canada. Nevertheless, some long-standing issues, such as cross-border oil pipelines, softwood lumber, and Buy American policies, likely will remain contentious.

Because Canada and the United States are similar in many ways, lawmakers in both countries often study policies and solutions proposed across the border. U.S. and Canadian domestic policies diverged on various matters over the past four years, as the Trudeau government implemented a carbon pricing system to address climate change, legalized the recreational cannabis market, increased refugee resettlement, and expanded Canada’s social safety net. The U.S. and Canadian governments also diverged in their responses to the Coronavirus Disease 2019 (COVID-19) pandemic with respect to the role of the federal government and fiscal policies to mitigate the economic impact on individuals and businesses.

The 116th Congress enacted several measures related to U.S.-Canada relations. Perhaps most significantly, the United States-Mexico-Canada Agreement Implementation Act (P.L. 116-113) was signed into law in January 2020, paving the way for the agreement’s entry into force. Congress also continued to support Great Lakes restoration efforts, appropriating \$320 million for such purposes in FY2020 (P.L. 116-94) and \$330 million in FY2021 (P.L. 116-260). In 2019, both houses adopted resolutions (S.Res. 96 and H.Res. 521) commending Canada for upholding the rule of law and its international legal commitments following the arrest of Meng Wanzhou, an executive at the Chinese technology company Huawei, to comply with an extradition request from the United States. U.S.-Canada cooperation on trade, environmental protection, foreign affairs, and various other issues may remain of interest to the 117th Congress.

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Introduction

History, proximity, commerce, and shared values underpin the relationship between the United States and Canada. Americans and Canadians fought side by side in both World Wars, Korea, and Afghanistan, and the United States and Canada continue to collaborate on various international political and security matters. The countries also share mutual security commitments under NATO; cooperate on continental defense through the binational North American Aerospace Defense Command (NORAD); maintain a close intelligence partnership as members of the “Five Eyes” group of nations; and coordinate frequently on law enforcement efforts, with a particular focus on securing their shared 5,525-mile border.¹

Bilateral economic ties, which were already considerable, have deepened markedly over the past three decades. Trade and investment relations during this period were governed first by the 1989 U.S.-Canada Free Trade Agreement and subsequently by the 1994 North American Free Trade Agreement (NAFTA); the new United States-Mexico-Canada Agreement (USMCA) has guided the economic partnership since its entry into force on July 1, 2020.² Canada is the third-largest goods trading partner of the United States, with total two-way cross-border goods trade amounting to more than \$525 billion in 2020.³ The United States is also the largest investor in Canada, and Canada is an important source of foreign direct investment in the United States. The countries have a highly integrated energy market, and Canada is the largest supplier of U.S. energy imports.

Unlike many countries whose bilateral relations are conducted solely through foreign ministries, the governments of the United States and Canada have deep relationships, often extending far down the bureaucracy, to address matters of common interest. For more than 60 years, the U.S. Congress has engaged directly with the Canadian Parliament through the Canada-United States Inter-Parliamentary Group (see textbox below). Initiatives between the states and provinces also are common, such as California and Quebec’s linked greenhouse-gas (GHG) emissions trading market under the Western Climate Initiative and various other initiatives to manage transboundary environmental and water issues.

Canada-United States Inter-Parliamentary Group

Since 1959, the U.S. Congress and the Canadian Parliament have maintained an Inter-Parliamentary Group (IPG) to foster mutual understanding and discuss bilateral and multilateral matters of concern to both countries. The IPG includes bipartisan representatives of the U.S. House and Senate and multiparty representatives of the Canadian House of Commons and Senate. Members historically have met annually, with the location alternating between the United States and Canada; however, more than 2½ years have passed since the last annual meeting (the 56th), held in Ottawa in June 2018.

Notes: For more on the IPG, see P.L. 86-42, at <https://uscode.house.gov/statutes/pl/86/42.pdf>; H. Rept 86-215; and Parliament of Canada, “Canada-United States Inter-Parliamentary Group,” at <https://www.parl.ca/diplomacy/en/associations/ceus>.

Nevertheless, with a population and economy one-tenth the size of the United States, Canada has sought to protect its autonomy and chart its own course in the world while maintaining its historical and political ties to the British Commonwealth. Some in Canada question whether U.S. investment, regulatory cooperation, border harmonization, or other public policy issues cede too

¹ In addition to the United States and Canada, the “Five Eyes” intelligence alliance includes Australia, New Zealand, and the United Kingdom.

² Often referred to as the Canada-U.S.-Mexico Agreement (CUSMA) in Canada.

³ U.S. Census Bureau, “U.S. International Trade in Goods and Services – December 2020,” February 5, 2020.

much sovereignty to the United States, whereas others embrace a more North American approach to Canada's neighborly relationship.

Policy differences, such as Canada's decision not to participate in the Iraq war in 2003 and the Obama Administration's rejection of the Keystone XL pipeline in 2015, have strained bilateral relations from time to time. The Canadian government welcomed President Trump's revival of Keystone XL, but several other areas of contention emerged during his Administration. Canadian officials expressed particular frustration with the Trump Administration's trade policies, including its approach to USMCA negotiations and its decision to impose tariffs on Canadian steel and aluminum on national security grounds. Canadian officials also expressed concerns about the Trump Administration's withdrawal from the Paris Agreement on climate change and its broader questioning of the multilateral institutions and rules that have helped to govern international relations since the end of World War II. The Trump Administration's policies appear to have contributed to a significant shift in Canadian public opinion, as the percentage of Canadians holding favorable views of the United States declined by 30 percentage points between 2016 and 2020.⁴

President Joe Biden spoke with Prime Minister Justin Trudeau during his first call with a foreign leader, highlighting the strategic importance of the U.S.-Canada relationship.⁵ Although both leaders called for reinvigorating bilateral cooperation, they are likely to contend with policy differences on a range of issues. For example, Prime Minister Trudeau and other Canadian officials already have expressed disappointment with President Biden's decision to revoke a presidential permit for the Keystone XL pipeline.⁶ The Biden Administration also may face lingering doubts among Canadians regarding the United States' reliability as a long-term partner.

This report presents an overview of Canada's political situation, foreign and defense policies, and economic and trade policies, focusing particularly on issues that may be relevant to U.S. policymakers. It also examines several environmental and transboundary issues that may be of interest to Members of the 117th Congress.

Politics and Governance

Canada is a constitutional monarchy and a parliamentary democracy. Queen Elizabeth II is the head of state; she is represented in Canadian affairs by a governor-general, who is appointed on the advice of the prime minister and carries out certain constitutional, ceremonial, and representational duties. Canada's bicameral Westminster-style Parliament includes an elected, 338-seat House of Commons and an appointed, 105-seat Senate. Members of Parliament are elected from individual districts (*ridings*) under a first-past-the-post system, which requires a plurality of the vote to win a seat. The governor-general typically calls upon the party winning the most seats to form a government. A government lasts as long as it can command a parliamentary majority for its policies, for a maximum of four years. Under Canada's federal system, the national government shares power and authority with 10 provinces and three territories, each of which is governed by a unicameral assembly.

⁴ Richard Wike, Janell Fetterolf, and Mara Mordecai, "U.S. Image Plummet Internationally as Most Say Country Has Handled Coronavirus Badly," Pew Research Center, September 15, 2020.

⁵ White House, "Readout of President Joe Biden Call with Prime Minister Justin Trudeau of Canada," January 22, 2021.

⁶ Justin Trudeau, Prime Minister of Canada, "Prime Minister Justin Trudeau Speaks with the President of the United States of America Joe Biden," January 22, 2021.

Liberal Majority Government: 2015-2019

Justin Trudeau has served as Canada's prime minister since November 2015. His Liberal Party won a majority in the House of Commons in October 2015 parliamentary elections, defeating Prime Minister Stephen Harper's Conservative Party, which had held power for nearly a decade. The Liberals' dominant position enabled them to implement much of their campaign platform. During its first four years in office, the Liberal government enacted a tax cut for middle-income families, created a new child benefit to help with the cost of raising children, and increased pension and parental leave benefits. The Liberal government also legalized cannabis consumption and worked with Canada's provinces and territories to develop a national climate change plan that imposed a price on carbon emissions.

Although Prime Minister Trudeau and the Liberals initially enjoyed high levels of public support, their approval ratings gradually declined as they abandoned some campaign pledges, such as electoral reform, and sought to balance competing policy priorities. For example, the Liberals enacted a carbon tax to reduce GHG emissions but also supported several pipeline projects to transport Canadian oil sands to overseas markets (see "Climate Change" and "Energy," below); those efforts to reconcile Canada's Paris Agreement commitments with its role as a major fossil fuel producer drew criticism from energy producers and environmentalists.

A series of ethics scandals further eroded public support for the Liberal government. In December 2017, Canada's conflict of interest and ethics commissioner ruled that Prime Minister Trudeau had contravened the country's Conflict of Interest Act by accepting two paid family vacations from a wealthy philanthropist whose foundation had received funding from the Canadian government.⁷ Prime Minister Trudeau was found to have contravened the act again in August 2019 for attempting to influence a decision of the attorney general of Canada regarding a potential criminal prosecution of the Montreal-based engineering company SNC-Lavalin.⁸

2019 Election

The Liberals entered the 2019 election campaign facing increased public scrutiny and polling neck and neck with the opposition Conservatives. With unemployment near a 40-year low, the Liberal Party highlighted its legislative accomplishments and argued the election was about whether or not Canada would "keep moving forward."⁹ Many Canadians remained concerned about cost-of-living issues, however, and Conservative Party leader Andrew Scheer pledged to help Canadians "get ahead."¹⁰ He argued the Liberal government's carbon tax had made necessities more expensive and claimed four years of deficit spending had failed to improve Canadians' lives. The Liberal Party also faced pressure from its left, with the New Democratic Party (NDP) and the Green Party seeking to win over progressive voters disenchanted with Prime Minister Trudeau's ethics violations and the Liberal Party's lack of follow-through on some of its more far-reaching 2015 campaign pledges.

In the end, the Liberals won 157 ridings, leaving the party 13 seats shy of a majority. The Liberal Party's vote share declined in every province and territory compared with 2015. It lost 29 seats

⁷ Mary Dawson, Conflict of Interest and Ethics Commissioner, *Trudeau Report*, December 2017.

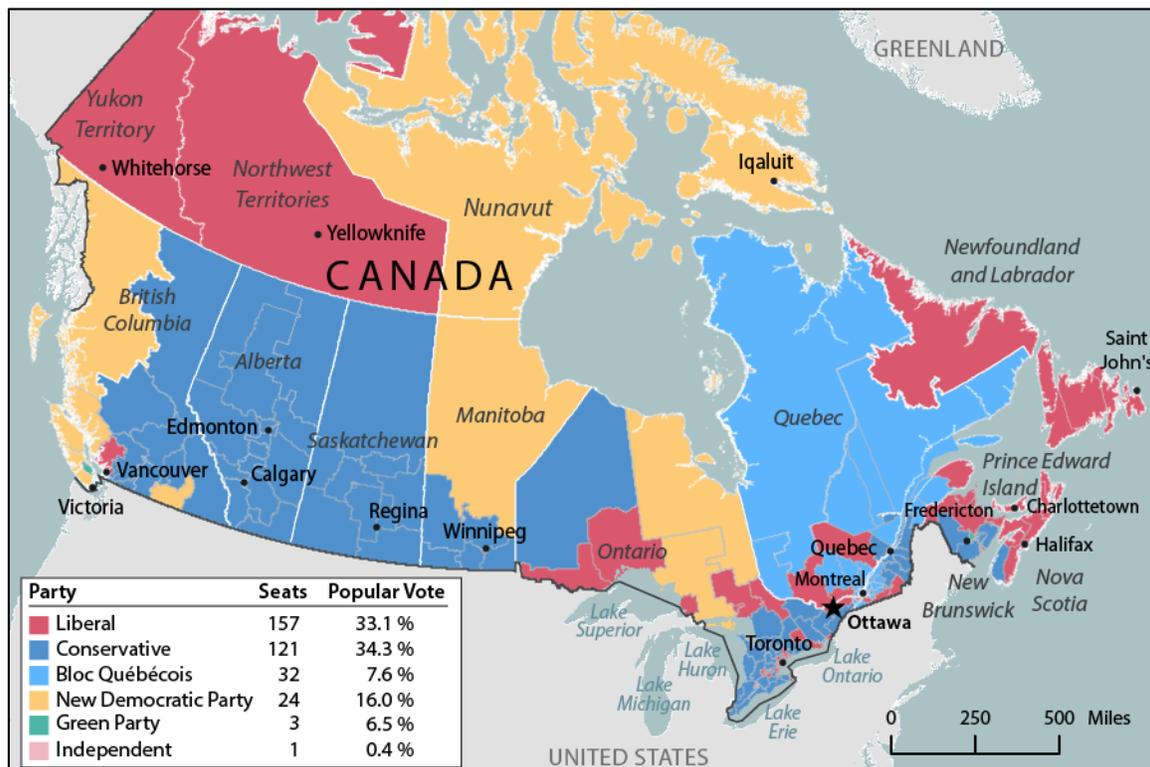
⁸ Mario Dion, Conflict of Interest and Ethics Commissioner, *Trudeau II Report*, August 2019.

⁹ Jason Kirby, "Election 2019 Primer: Jobs, the Economy and the Deficit," *Macleans*, September 12, 2019; and Liberal Party of Canada, *Forward: A Real Plan for the Middle Class*, September 2019.

¹⁰ Bruce Anderson and David Coletto, "Election 2019 Is a Battle to Define the Agenda," Abacus Data, July 15, 2019; and Conservative Party of Canada, "Andrew Scheer Launches Campaign to Help You Get Ahead," September 11, 2019.

across the country, including the party's only footholds in the oil-producing provinces of Alberta and Saskatchewan. The Conservative Party won a plurality of all votes cast nationwide but failed to make significant gains in Quebec and Ontario, which hold nearly 60% of the seats in the House of Commons (see **Figure 1**). As a result, the Conservatives remain the Official Opposition, with 121 seats. The Bloc Québécois, which promotes Quebec sovereignty, surged to a third-place finish by winning 32 seats in the province. The Bloc's gains came largely at the expense of the NDP, which won 24 seats. The Green Party won three seats, and Prime Minister Trudeau's former attorney general, who resigned after accusing the prime minister of inappropriate intervention in the SNC-Lavalin case, won reelection to parliament as an independent.

Figure 1. Map of Canada's 2019 Federal Election Results



Source: CRS. Data from Elections Canada, "Official Voting Results: Forty-Third General Election," 2019.

Minority Government and Pandemic Response

Prime Minister Trudeau has presided over a minority government since the start of the 43rd Parliament in December 2019. As the new term began, it appeared the government's primary challenge would be to develop policies that would further reduce Canada's GHG emissions while maintaining economic growth and addressing an increasing sense of political alienation in the country's western oil-producing provinces.¹¹ The Liberals' other stated policy priorities included a new tax cut for middle-income families, more stringent gun controls, an expansion of Canada's

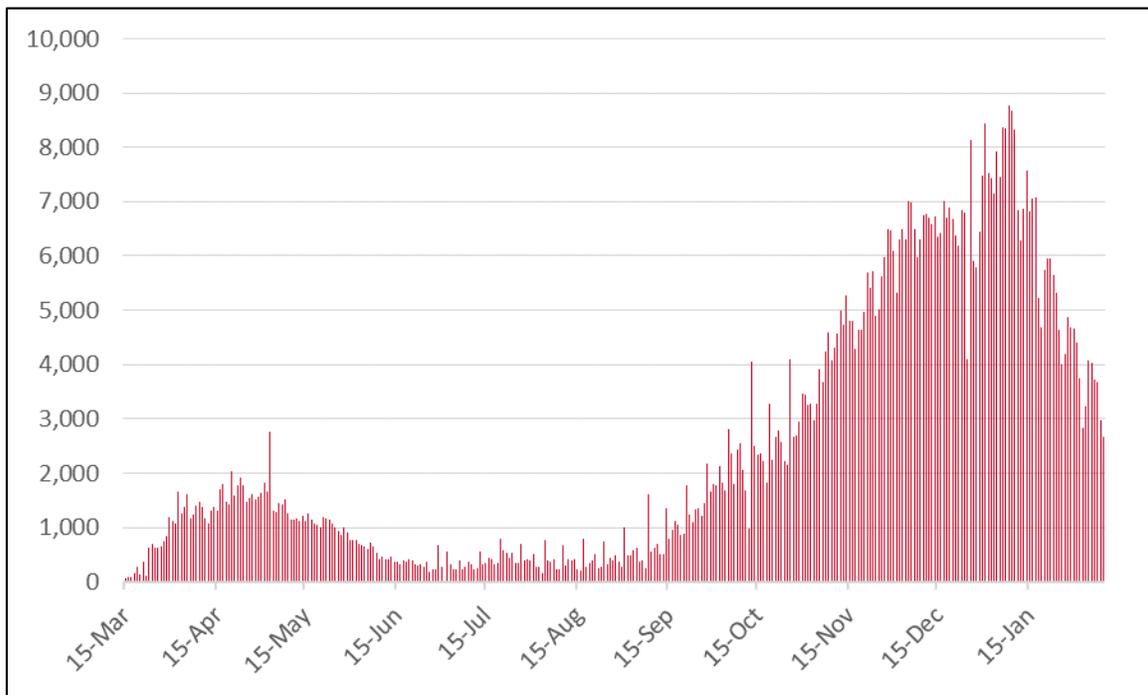
¹¹ Grant Wyeth, "How Climate Change Could Tear Canada Apart," *World Politics Review*, February 13, 2020.

universal health care system to cover prescription drugs, and reconciliation with indigenous peoples.¹²

Many of those issues were set aside, however, with the onset of the Coronavirus Disease 2019 (COVID-19) pandemic. The Canadian government confirmed the first documented infection in the country on January 27, 2020, and recorded the first death from the disease on March 9, 2020. By late March 2020, the Trudeau government had closed Canada's borders to most nonresidents and imposed a mandatory 14-day quarantine for individuals returning to the country. The federal government also coordinated with provincial and territorial governments—which have jurisdiction over health care—to secure personal protective equipment and other medical supplies and to scale up the country's testing and contact-tracing capabilities. The provinces and territories have imposed (and lifted) containment measures in accordance with local conditions and the federal government's broad public health guidelines.

Figure 2. Confirmed Cases of COVID-19 in Canada

(new cases by date reported [March 15, 2020-February 9, 2021])



Source: CRS, Data from Public Health Agency of Canada, “Public Health Infobase - Data on COVID-19 in Canada,” February 10, 2021.

Analysts credited those coordinated efforts for initially slowing the spread of the virus (see **Figure 2**). Although provincial health services reportedly experienced some supply shortages, they had sufficient capacity to handle the first wave of infections.¹³ As conditions improved, provincial and territorial governments implemented phased reopening plans that allowed children

¹² Government of Canada, “Moving Forward Together: Speech from the Throne to Open the First Session of the 43rd Parliament of Canada,” September 5, 2019.

¹³ Marieke Walsh and Nathan Vanderklippe, “Provinces Compete for Critical Medical Supplies,” *Globe and Mail*, April 7, 2020; and Allen S. Detsky and Isaac I. Bogoch, “COVID-19 in Canada: Experience and Response,” *Journal of the American Medical Association (JAMA)*, vol. 324, no. 8 (August 25, 2020), pp. 743-744.

to return to school and loosened restrictions on many business and recreational activities. A second, larger wave of infections swept through Canada in late 2020, however, leading provinces to reimpose restrictions. As of February 9, 2021, Canada had registered nearly 811,000 cases and 21,000 deaths from COVID-19.¹⁴ The country's COVID-19 daily case rate (9.4 new cases per 100,000 residents) was less than one-third of that of the United States (33 new cases per 100,000 residents).¹⁵

The Trudeau government has worked with Parliament to mitigate the economic impact of the pandemic and public health measures. Among other programs, the government created the Canada Emergency Response Benefit, which provided C\$2,000 (approximately \$1,538) every four weeks to workers who lost their incomes due to COVID-19, and the Canada Emergency Wage Subsidy, which covered 75% of employees' wages, up to C\$847 (approximately \$652) per week, for businesses that have lost a certain amount of revenue.¹⁶ The emergency response benefit originally was to provide up to 16 weeks of assistance, but the Canadian government extended the program to 28 weeks. In September 2020, beneficiaries began transitioning into a newly expanded employment insurance system; self-employed and gig workers who do not qualify for employment insurance are eligible for a new C\$500 (approximately \$385) per week Canada Recovery Benefit until September 2021. The Canadian government also extended the wage subsidy program, originally scheduled to expire in June 2020, through June 2021.¹⁷

Prime Minister Trudeau laid out a revised vision for his second term in September 2020, which was fleshed out in the government's *Fall Economic Statement 2020*. The Liberal government's top priorities are combatting the pandemic and helping Canadians through the crisis. Among other measures, Prime Minister Trudeau pledged to help provinces increase testing, ensure Canadians have access to vaccines and therapeutics, and provide continued financial support to individuals and businesses affected by the pandemic and government containment measures. The Canadian government has signed agreements with seven vaccine suppliers for enough doses to vaccinate the Canadian population nearly six times over. Production delays have slowed distribution, however, and only 2.7% of the Canadian population had received at least one vaccine dose as of early February (compared with 10.2% of the U.S. population).¹⁸

Following the immediate crisis, the Liberals argue Canada should take advantage of low interest rates to finance economic stimulus measures and address longer-term concerns, such as climate change and gaps in Canada's social assistance systems.¹⁹ The prime minister will need to secure the support of opposition parties to enact his agenda. Although Erin O'Toole, the newly elected leader of the Conservative Party, has dismissed many of Prime Minister Trudeau's proposals,

¹⁴ Government of Canada, Public Health Infobase, "Interactive Data Visualizations of COVID-19," February 10, 2021. Data are updated regularly at <https://health-infobase.canada.ca/covid-19/>.

¹⁵ "COVID World Map: Tracking the Global Outbreak," *New York Times*, February 10, 2021. Data are updated regularly at <https://www.nytimes.com/interactive/2020/world/coronavirus-maps.html>.

¹⁶ Currency conversions throughout this report are based on the average exchange rate from September 14, 2020, to January 15, 2021, of C\$1.3/U.S.\$1. Data from the Board of Governors of the Federal Reserve, "Foreign Exchange Rates," January 19, 2021.

¹⁷ Department of Finance Canada, "Canada's COVID-19 Economic Response Plan," September 28, 2020; and Canada Revenue Agency, "Canada Emergency Wage Subsidy (CEWS)," November 23, 2020.

¹⁸ Government of Canada, "Procuring Vaccines for COVID-19," February 9, 2021; and "Canada Politics: Quick View – Vaccine Shortages Slow Rollout," *Economist Intelligence Unit*, February 4, 2021.

¹⁹ Government of Canada, "A Stronger and More Resilient Canada: Speech from the Throne to Open the Second Session of the 43rd Parliament of Canada," September 23, 2020; and Department of Finance Canada, *Supporting Canadians and Fighting COVID-19: Fall Economic Statement 2020*, November 30, 2020.

NDP leader Jagmeet Singh has indicated his party is prepared to provide political support to the Liberal government as long as the government supports NDP priorities, such as paid sick leave.²⁰

The Liberals will need to maintain the NDP's support or offset it with support from the Bloc Québécois or the Conservative Party to avoid a snap election; recent minority governments have lasted just over two years, on average.²¹ Popular support for the Liberal Party initially increased during the pandemic but declined somewhat after Canada's conflict of interest and ethics commissioner launched an investigation in July 2020 into the government's decision to award a contract to a charity with ties to the prime minister's family.²² As of February 8, 2021, polls suggested 35% of Canadians would support the Liberals in a new election, 30% would support the Conservatives, 18% would support the NDP, nearly 7% would support the Bloc Québécois, and 6% would support the Green Party.²³

Foreign and Defense Policy

Canada views the rules-based international order that it helped establish with the United States and other allies in the aftermath of World War II as essential to its physical security and economic prosperity. According to Deputy Prime Minister and Minister of Finance Chrystia Freeland, who served as minister of foreign affairs from 2017 to 2019, "As a middle power living next to the world's only super power, Canada has a huge interest in an international order based on rules. One in which might is not always right. One in which more powerful countries are constrained in their treatment of smaller ones by standards that are internationally respected, enforced and upheld."²⁴

Historically, Canada has sought to increase its influence over the shape of the international order through multilateral diplomacy and contributions to collective security alliances. Although the Harper government broke with its predecessors to a certain extent, expressing more skepticism toward the United Nations and other international organizations, Prime Minister Trudeau has restored Canada's traditional approach to foreign affairs.²⁵

Over the past four years, much of Prime Minister Trudeau's time and attention has focused on managing relations with the United States. Maintaining smooth bilateral relations is typically a top priority for Canadian governments, since Canada depends on access to the U.S. market and benefits from U.S. investments in continental defense (see "U.S.-Canada Security Cooperation"). That task grew more difficult during the Trump Administration, however, which challenged many long-standing pillars of the U.S.-Canada relationship. In addition to renegotiating NAFTA, President Trump raised doubts about the U.S. commitment to NATO and withdrew from multilateral institutions and agreements that both countries previously supported. Prime Minister Trudeau generally sought to avoid direct confrontations with the Trump Administration, but tensions boiled over on a few occasions. In June 2018, for example, President Trump and

²⁰ Althia Raj, "Jagmeet Singh: NDP Could Prop Up Liberal Government for Another 3 Years," *HuffPost Canada*, September 26, 2020.

²¹ Geoff Norquay, "Is Canada Headed Toward Another Minority Government?," *Policy Options*, September 19, 2019.

²² "The WE Charity Controversy Explained," *CBC News*, July 28, 2020.

²³ These vote projections are from a model that averages all publicly available opinion polls, weighted by age, sample size, and past performance of the polling firm. Éric Grenier, "Poll Tracker," *CBC News*, February 8, 2021.

²⁴ Global Affairs Canada, "Address by Minister Freeland on Canada's Foreign Policy Priorities," June 6, 2017.

²⁵ John Ibbitson, *The Big Break: The Conservative Transformation of Canada's Foreign Policy*, Centre for International Governance Innovation, CIGI Papers No. 29, April 2014.

Administration officials made disparaging remarks about Trudeau after the prime minister announced his intention to impose retaliatory tariffs on U.S. goods in response to the Trump Administration's decision to impose national security tariffs on Canadian steel and aluminum (see "Steel and Aluminum Tariffs," below).²⁶

U.S.-Canada relations have improved since the conclusion of USMCA negotiations, but many Canadians question whether the United States remains a reliable partner.²⁷ The Trudeau government has sought to reduce Canada's dependence on the U.S. market by concluding free trade agreements (FTAs) with the European Union and 10 countries in the Asia-Pacific region (see "Canada's Network of Free Trade Agreements," below). Although the Trudeau government also explored a potential FTA with China, talks were suspended due to a sharp deterioration in relations (see "Relations with China," below).

Amid perceptions that the United States seeks to "shrug off the burden of global leadership," the Trudeau government has sought to work with like-minded countries to uphold the rules-based international order.²⁸ In 2019, for example, Canada joined a coalition of countries led by France and Germany to launch the Alliance for Multilateralism—an informal network that seeks to protect and preserve international norms, agreements, and institutions; address new challenges that require collective action; and reform multilateral institutions and agreements to ensure they deliver tangible results to citizens. Canada also is leading a small coalition of World Trade Organization (WTO) members, known as the Ottawa Group, to reform the multilateral trading system.

As part of its broader efforts to uphold the rules-based order, the Trudeau government has reaffirmed Canada's commitment to collective security efforts. It unveiled a new defense policy in 2017, which asserts that defending Canada and Canadian interests "not only demands robust domestic defense but also requires active engagement abroad."²⁹ Among other deployments, Canada is contributing to the U.S.-led coalition in Iraq and to NATO's deterrence operations in Eastern Europe (see "NATO Commitments"). Although Prime Minister Trudeau pledged to increase Canada's support for U.N. peacekeeping missions, his government's contributions have been fairly limited, with the exception of a 13-month deployment of a 250-member air task force to Mali.³⁰ Some analysts have linked Canada's failed bid for a temporary seat on the U.N. Security Council for the 2021-2022 term, in part, to the country's comparatively small contributions to global peacekeeping and development efforts.³¹

²⁶ Michael D. Shear and Catherine Porter, "Trump Refuses to Sign G-7 Statement and Calls Trudeau 'Weak,'" *New York Times*, June 9, 2018; and Patrick Temple-West, "White House Ratchets Up Trade War with 'Special Place in Hell' Slug at Trudeau," *Politico*, June 10, 2018.

²⁷ Jamie Gillies and Shaun Narine, "The Trudeau Government and the Case for Multilateralism in an Uncertain World," *Canadian Foreign Policy Journal*, vol. 26, no. 3 (2020), pp. 257-275; Richard Nimijean and David Carment, "Rethinking the Canada-U.S. Relationship After the Pandemic," *Policy Options*, May 7, 2020; and Steven Chase, "More Canadians Hold an Unfavourable View of the U.S. Than at Any Point Since Sentiment Was First Tracked, Poll Indicates," *Globe and Mail*, October 15, 2020.

²⁸ Global Affairs Canada, "Address by Minister Freeland on Canada's Foreign Policy Priorities," June 6, 2017.

²⁹ Department of National Defence, *Strong, Secure, Engaged: Canada's Defence Policy*, June 2017, p. 14.

³⁰ Department of National Defence, "Canadian Armed Forces Conclude Peacekeeping Mission in Mali," press release, August 31, 2019; and Mike Blanchfield, "Canada's Peacekeeping Contribution at Lowest Level in More Than 60 Years," *Globe and Mail*, May 23, 2020.

³¹ Bruno Charbonneau and Christian Leuprecht, "When Will Canada Hear the Message the UN Keeps Sending Us?," *Globe and Mail*, June 19, 2020; and "Canada Loses Out on UN Security Council Seat Bid," *Economist Intelligence Unit*, June 30, 2020.

NATO Commitments

Canada, like the United States, was a founding member of NATO in 1949. It maintained a military presence in Western Europe throughout the Cold War in support of the collective defense pact. Since the 1990s, Canada has supported NATO's adaptation and has been an active participant in numerous NATO operations, including the 1992 intervention in Bosnia and Herzegovina, the 1999 bombing campaign in Serbia, and the 2011 intervention in Libya. Canada contributed the fifth-largest national contingent to the NATO-led International Security Assistance Force in Afghanistan, before withdrawing in 2014.

Canada commanded NATO Mission Iraq from its October 2018 inception until November 2020. The mission aims to strengthen Iraqi security institutions and forces by providing noncombat advisory, training, and capacity-building support to Iraqi defense officials and military personnel. Those efforts complemented Canada's broader contributions to the U.S.-led coalition to defeat the Islamic State. Although Prime Minister Trudeau withdrew Canada's fighter aircraft from Iraq shortly after taking office, he has deployed up to 850 troops to the Middle East to support coalition air operations; provide intelligence support; and train, advise, and assist Iraqi security forces.³² Canada and other NATO and coalition partners have repositioned many personnel outside of Iraq since early 2020 due to a deterioration in the security situation and the COVID-19 pandemic.³³ Although some troops may return to the Middle East once conditions improve, Canada intends to reduce its overall presence in the region.³⁴

Canada has been an advocate for NATO enlargement and has deployed Canadian Armed Forces personnel to Central and Eastern Europe in support of the newest members of the alliance. In June 2017, Canada took command of a NATO battle group deployed to Latvia as part of the alliance's Enhanced Forward Presence in Eastern Europe. The 1,500-strong battle group includes 540 members of the Canadian Armed Forces, as well as troops from Albania, the Czech Republic, Italy, Montenegro, Poland, Slovakia, Slovenia, and Spain. The United States, the United Kingdom, and Germany command similar forces in Poland, Estonia, and Lithuania, respectively, as part of a broader effort to reassure the alliance's eastern members and bolster deterrence in the aftermath of Russia's annexation of Crimea. Canada also commands a standing NATO maritime group that operates in Western and Northern European waters.³⁵

Under the Trudeau government's defense policy, Canada is to increase defense spending by 73% in nominal terms over 10 years to reach C\$32.7 billion (approximately \$25.2 billion) in 2026-2027. Canada intends to use the additional resources to acquire new aircraft, ships, and other equipment; expand the Canadian Armed Forces by 3,500 personnel; and invest in new capabilities.³⁶ If implemented, Canada's total defense spending as a percentage of gross domestic product (GDP) would reach 1.4% in 2024-2025, which would fall well short of NATO's

³² Department of National Defence, "Operation IMPACT," December 15, 2020; and NATO, "NATO Mission Iraq," October 29, 2020.

³³ NATO and other coalition operations were suspended temporarily in January 2020 following the U.S. killing of Qasem Soleimani, the commander of Iran's Islamic Revolutionary Guard Corps-Quds Force, and subsequent Iranian missile attacks against Iraqi bases hosting U.S. and coalition forces. Following the U.S. strike against Soleimani, Iran shot down a civilian aircraft, killing all 176 people aboard, including 55 citizens and 30 permanent residents of Canada.

³⁴ Lee Berthiaume, "Canadian Military Shrinks Middle East Footprint as ISIL Fight Enters New Phase," Canadian Press, July 29, 2020.

³⁵ Department of National Defence, "Operation REASSURANCE," January 18, 2021; and NATO, "NATO's Enhanced Forward Presence," fact sheet, October 2019.

³⁶ Department of National Defence, *Strong, Secure, Engaged: Canada's Defence Policy*, June 2017, p. 13.

recommended level of at least 2% of GDP. Nevertheless, Canada would exceed NATO's target of investing 20% of defense expenditure in major equipment; such investments would reach 32% of defense spending in 2024-2025.³⁷

In 2020, partially due to the sharp economic downturn, Canada's estimated defense expenditures reached approximately 1.45% of GDP, with 17.4% of expenditures dedicated to equipment.³⁸ Although the pandemic-driven economic downturn could put pressure on Canada's defense budget, Defense Minister Harjit Sajjan maintains that expenditures are moving forward as planned.³⁹ Successive U.S. Administrations have pushed Canada to meet the NATO target, but Canada has long argued that countries' contributions to the alliance should be measured more by the capabilities and troops they provide than by their defense expenditures as a percentage of GDP.

Relations with China

Prime Minister Trudeau's government came to office intending to strengthen ties with China. It argued that deeper commercial ties with China were necessary to increase Canada's long-term economic growth and diversify the country's trade relations. The United States is the destination of about 73% of Canada's global merchandise exports,⁴⁰ and the Trump Administration's trade policies reinforced long-standing concerns that Canada is overly dependent on the U.S. market. During Prime Minister Trudeau's first years in office, Canada joined the China-backed Asian Infrastructure Investment Bank and allowed Chinese companies to acquire some Canadian businesses in sensitive sectors.⁴¹ Canada also increased its diplomatic engagement with China and engaged in exploratory discussions regarding an extradition treaty and an FTA.⁴²

Chinese-Canadian relations have deteriorated significantly since December 2018, when Canada arrested Meng Wanzhou, an executive at the Chinese technology company Huawei, to comply with an extradition request from the United States. A trial to determine whether Meng is to be extradited to the United States has been underway since January 2020. The U.S. Department of Justice indicted Meng and Huawei for financial fraud involving violations of U.S. sanctions on Iran.⁴³ In apparent retaliation for Meng's arrest, China detained two Canadians, Michael Kovrig, a former diplomat, and Michael Spavor, in December 2018. China has held the men in state custody for over two years, charging them with espionage in June 2020.⁴⁴ China also restricted imports of certain Canadian agricultural products. Although Chinese officials maintain that Canada must ensure Meng's safe return to China to avoid further damage to bilateral relations,

³⁷ Department of National Defence, *Strong, Secure, Engaged: Canada's Defence Policy*, June 2017. p. 46.

³⁸ NATO, "Defence Expenditure of NATO Countries (2013-2020)," Communiqué PR/CP(2020)104, October 21, 2020.

³⁹ Lee Berthiaume, "Hundreds of Billions of Planned Military Spending 'Secure' Despite COVID-19: Sajjan," Canadian Press, September 15, 2020.

⁴⁰ Statistics Canada data, as presented by *Trade Data Monitor*, accessed February 2021.

⁴¹ For more on the bank, see CRS In Focus IF10154, *Asian Infrastructure Investment Bank*, by Martin A. Weiss.

⁴² Preston Lim, "Sino-Canadian Relations in the Age of Justin Trudeau," *Canadian Foreign Policy Journal*, vol. 26, no. 1 (2020).

⁴³ U.S. Department of Justice, "Chinese Telecommunications Conglomerate Huawei and Huawei CFO Wanzhou Meng Charged with Financial Fraud," press release, January 28, 2019.

⁴⁴ Ministry of Foreign Affairs of the People's Republic of China, "Foreign Ministry Spokesperson Zhao Lijian's Regular Press Conference," June 19, 2020; and Global Affairs Canada, "Two Years Since Canadians Michael Kovrig and Michael Spavor Arbitrarily Detained in China," December 9, 2020.

Prime Minister Trudeau has criticized China's "coercive diplomacy" and demanded the release of the incarcerated Canadians.⁴⁵

The Trump Administration praised Canada for honoring the extradition treaty and upholding the rule of law and called on China to end its "arbitrary detention of Canadian citizens."⁴⁶ The Senate and the House passed resolutions (S.Res. 96 and H.Res. 521, respectively, 116th Congress) expressing similar sentiments in 2019. Canadian officials expressed some frustrations, however, that the Trump Administration did not push more forcefully for the Canadians' release.⁴⁷

Tensions have escalated as Canada has pressed China on human rights issues. In May 2020, Canada joined with the United States, the United Kingdom (UK), and Australia to express "deep concern" about China's decision to impose a new national security law on Hong Kong.⁴⁸ Since then, Canada has suspended its extradition treaty with Hong Kong, placed restrictions on sensitive exports to Hong Kong, granted asylum to some Hong Kong democracy activists, and created a new class of work permit for Hong Kong residents.

Canadian officials also have expressed concerns about China's treatment of Uyghurs and other ethnic minorities in northwest China's Xinjiang region. In October 2020, the House of Commons Subcommittee on International Human Rights asserted that the situation amounts to genocide and called on the Canadian government to impose sanctions on the Chinese officials responsible.⁴⁹ The Trudeau government has opted not to impose sanctions thus far, but it announced a series of measures in January 2021 intended to prevent goods produced through forced labor in Xinjiang from entering Canadian supply chains.⁵⁰ The Chinese government has pushed back, urging Canada to "stop interfering in China's internal affairs."⁵¹ Human rights groups and Canadian officials maintain that Chinese government agents also have been directly and indirectly involved in harassment and intimidation against pro-democracy and human rights activists in Canada.⁵²

The deterioration in relations could influence the Trudeau government's decision regarding whether to allow Huawei to participate in Canada's fifth-generation (5G) telecommunications network. The Trump Administration argued that using Huawei equipment would leave Canada's network vulnerable to espionage and sabotage, since the company ultimately answers to the Chinese government—a charge Huawei denies. Several of Canada's top telecommunications companies use Huawei equipment in their existing networks and are concerned that excluding the

⁴⁵ Nathan Vanderklippe, "China Shifts Tone, Threatens 'Damage' to Relations with Canada," *Globe and Mail*, May 27, 2020; and Robert Fife and Steven Chase, "PM Vows to Fight China's 'Coercive Diplomacy,'" *Globe and Mail*, October 14, 2020.

⁴⁶ Robert Palladino, Deputy Spokesperson, "Canada's Legitimate Arrest of Huawei CFO Meng Wanzhou," U.S. Department of State, December 21, 2018; and Michael R. Pompeo, Secretary of State, "United States Stands with Canada Against China's Arbitrary Detention of Canadian Citizens," U.S. Department of State, June 22, 2020.

⁴⁷ "Fed Up Canada Tells U.S. to Help with China Crisis or Forget About Favors," Reuters, May 6, 2019.

⁴⁸ U.S. Department of State, Office of the Spokesperson, "Joint Statement on Hong Kong," May 28, 2020.

⁴⁹ House of Commons, Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development, "Statement by the Subcommittee on International Human Rights Concerning the Human Rights Situation of Uyghurs and Other Turkic Muslims in Xinjiang, China," press release, October 21, 2020.

⁵⁰ Global Affairs Canada, "Canada Announces New Measures to Address Human Rights Abuses in Xinjiang, China," January 12, 2021.

⁵¹ Ministry of Foreign Affairs of the People's Republic of China, "Foreign Ministry Spokesperson Zhao Lijian's Regular Press Conference on October 22, 2020," October 22, 2020.

⁵² Canadian Coalition on Human Rights in China and Amnesty International, *Harassment & Intimidation of Individuals in Canada Working on China-Related Human Rights Concerns*, March 2020; and Robert Fife and Steven Chase, "Beijing Targeting Canada's Chinese Community, CSIS Says," *Globe and Mail*, November 10, 2020.

company would raise costs and delay the rollout of 5G technology.⁵³ The Trudeau government has been conducting a national security review of the issue since September 2018 and has not issued a timeline for arriving at a decision. Canada is the only member of the Five Eyes alliance that has yet to block the use of Huawei equipment, and U.S. officials have warned their Canadian counterparts that the decision could affect intelligence and defense cooperation.⁵⁴ According to a poll conducted in September 2020, 79% of Canadians view China as a moderate or serious threat to Canada.⁵⁵

A provision of the FY2021 Intelligence Authorization Act (P.L. 116-260, Division W, §601) requires the directors of the Central Intelligence Agency, National Security Agency, and Defense Intelligence Agency to submit a joint report on attempts by China and other foreign adversaries to provide telecommunications and cybersecurity equipment and services to Five Eyes countries. The report is to assess U.S. intelligence and defense relationships with such countries and to consider the potential for mitigating risks posed by those relationships.

U.S.-Canada Security Cooperation

According to the U.S. State Department, “U.S. defense arrangements with Canada are more extensive than with any other country.”⁵⁶ In addition to their mutual defense commitments under NATO and close intelligence partnership as members of the Five Eyes alliance, the United States and Canada cooperate on continental defense through NORAD and coordinate extensively on law enforcement matters, including border security and cybersecurity.

North American Aerospace Defense Command

NORAD is a cornerstone of U.S.-Canada defense relations. Established in 1958, NORAD originally was intended to monitor and defend North America against Soviet long-range bombers. The NORAD agreement has been reviewed and revised several times, however, to respond to changes in the international security environment. Today, NORAD’s mission consists of the following:

- **Aerospace Warning.** Processing, assessing, and disseminating intelligence related to the aerospace domain and detecting, validating, and warning of attacks against North America, whether by aircraft, missiles, or space vehicles.
- **Aerospace Control.** Providing surveillance and exercising operational control over U.S. and Canadian airspace.
- **Maritime Warning.** Processing, assessing, and disseminating intelligence related to the maritime areas and internal waterways of the United States and Canada, and warning of maritime threats to North America to enable response by national commands.

NORAD is the only binational command in the world. The U.S. commander and the Canadian deputy commander of NORAD are appointed by, and responsible to, both the U.S. President and the Canadian prime minister. Likewise, NORAD headquarters at Peterson Air Force Base in

⁵³ Alexandra Posadzki, Robert Fife, and Steven Chase, “Huawei’s 5G Role in Doubt as Bell, Telus Use European Suppliers,” *Globe and Mail*, June 3, 2020.

⁵⁴ The United States, the United Kingdom, and Australia have banned Huawei from their 5G networks. New Zealand has not issued a blanket ban, but it blocked an attempt by a telecommunications company to use Huawei equipment.

⁵⁵ Macdonald-Laurier Institute and Konrad Adenauer Stiftung, “Canada’s Role in the World – Part One,” November 2020.

⁵⁶ U.S. Department of State, Bureau of Western Hemisphere Affairs, *U.S. Relations with Canada*, July 16, 2020.

Colorado is composed of integrated staff from both countries. This binational structure allows the United States and Canada to pool resources, avoiding duplication of some efforts and increasing North America's overall defense capabilities. Nevertheless, because the U.S. and Canadian governments want to maintain their abilities to take unilateral action, some NORAD responsibilities and authorities overlap with those of U.S. Northern Command (NORTHCOM) and Canadian Joint Operations Command (CJOC).

In 2017, President Trump and Prime Minister Trudeau agreed to modernize and broaden the NORAD partnership in the air, maritime, cyber, and space domains.⁵⁷ NORAD officials maintain that the command must update its aging systems and develop new capabilities to deter, detect, and defeat emerging threats, such as stealthy air- and sea-launched cruise missiles and hypersonic glide vehicles.⁵⁸ The U.S. and Canadian governments have yet to formalize agreements regarding specific expenditures or changes to the command's approach to continental defense.

The Trudeau government's defense policy states that Canada will make the investments necessary to fulfill the country's NORAD obligations and will work with the United States to ensure the command is able to meet existing and future challenges. Among other initiatives, the policy calls for Canada to purchase 88 fighter aircraft to replace its aging fleet of CF-18s and to collaborate with the United States to replace the North Warning System—a chain of unmanned radar stations in the Arctic that provides aerospace surveillance along the northern approaches to the United States and Canada.⁵⁹ Canada's procurement process for advanced fighters has been delayed for more than a decade, and a final contract is not expected to be concluded until 2022.⁶⁰ The repeated delays have led some analysts to question whether Canada will be able to meet its NORAD commitments.⁶¹ Analysts also have questioned Canada's decision not to participate in ballistic missile defense, which reportedly has complicated command and control by dividing the mission between NORAD, which is involved in missile detection and warning, and NORTHCOM, which is responsible for the U.S. ballistic missile defense system.⁶²

Border Security

The United States and Canada coordinate extensively on efforts to secure their shared 5,525-mile border. The 2011 "Beyond the Border" declaration and action plan provide the framework for ongoing bilateral cooperation, including efforts to address potential threats, facilitate legal commercial and passenger traffic, enhance cross-border law enforcement cooperation, and strengthen and protect critical infrastructure.⁶³ The declaration and action plan have resulted in several initiatives, including

⁵⁷ White House, Office of the Press Secretary, "Joint Statement from President Donald J. Trump and Prime Minister Justin Trudeau," February 13, 2017.

⁵⁸ Terrence J. O'Shaughnessy and Peter M. Fesler, "Hardening the Shield: A Credible Deterrent & Capable Defense for North America," *Wilson Center, Canada Institute*, September 2020.

⁵⁹ Department of National Defence, *Strong, Secure, Engaged: Canada's Defence Policy*, June 2017.

⁶⁰ Canada has participated in the U.S.-led F-35 Joint Strike Fighter program since 1997, contributing \$541 million to the consortium, but has yet to make a final decision on whether to purchase F-35s or alternative aircraft.

⁶¹ Laura Dawson, *The Interim Fighter Capability Project and Its Importance to Canada's NORAD Mission*, Wilson Center, Canada Institute, December 11, 2017; and Al Stephenson, *Anatomy of a Buy: The Four Dimensions of Procuring a Future Fighter for Canada*, Canadian Global Affairs Institute, May 2019.

⁶² Michael Dawson, *NORAD: Remaining Relevant*, University of Calgary, School of Public Policy, November 2019; and NORAD Deputy Commander Lieutenant-General Pierre St-Amand, remarks before the House of Commons, Standing Committee on National Defense, April 19, 2016.

⁶³ The "Beyond the Border" declaration and action plan are available at <https://www.dhs.gov/sites/default/files/>

- a 2012 Visa and Immigration Information Sharing Agreement that allows for the automated sharing of biographic and biometric information;
- a 2013 entry/exit program that allows data on entry to one country to serve as a record of exit from the other;
- a 2015 Agreement on Land, Rail, Marine, and Air Transport Preclearance that allows customs and immigration officials to clear travelers and cargo in their countries of origin; and
- a 2016 accord that allows for the exchange of information on individuals who present a clear threat, including the countries' respective "no-fly" lists.⁶⁴

Canadian concerns about privacy and sovereignty delayed implementation of some of these initiatives.⁶⁵ Consequently, the United States and Canada did not begin exchanging information on all U.S. and Canadian citizens under the entry/exit program until July 2019 and the Agreement on Land, Rail, Marine, and Air Transport Preclearance did not enter into force until August 2019.

In 2016, Congress enacted the Northern Border Security Review Act (P.L. 114-267), which directed the U.S. Department of Homeland Security (DHS) to conduct an analysis of threats along the U.S.-Canada border. The public summary of the threat analysis, released in July 2017, asserted that "the large volume of legitimate travel across the northern border and the long stretches of difficult terrain between ports of entry provide potential opportunities for individuals who may pose a national security risk to enter the United States undetected."⁶⁶ The analysis also noted, however, that encounters with individuals associated with transnational crime or terrorism were infrequent, and total apprehensions of individuals entering the United States from Canada between points of entry had remained below 800 per year for the previous five years. DHS developed a new Northern Border Strategy in 2018 intended to address the security challenges identified in the threat analysis while facilitating lawful trade and travel.⁶⁷

Although the number of individuals crossing illegally into the United States from Canada remained relatively low during the Trump Administration, the number of individuals crossing from the United States into Canada between official ports of entry grew significantly. More than 56,500 individuals requested asylum in Canada after crossing the border irregularly from 2017 to 2019, more than double the number who did so from 2014 to 2016.⁶⁸ This northern flow of asylum-seekers appears to have been spurred, in part, by the Trump Administration's immigration policies, such as the termination of Temporary Protected Status for more than 55,000 Haitians,⁶⁹ as well as by Canada's image as a sanctuary for refugees after the Trudeau government resettled more than 25,000 Syrians in its first 100 days in office. At times, the influx of asylum-seekers

publications/us-canada-btb-action-plan.pdf.

⁶⁴ DHS, "Beyond the Border Fact Sheet," January 2017.

⁶⁵ Evan Dyer, "Ottawa Gets an Earful on Proposed Expansion of U.S. Border Pre-clearance Powers," *CBC News*, August 6, 2017; and John Paul Tasker, "Ottawa's Push to Share More Border-Crossing Data with U.S. Raising Red Flags over Privacy," *CBC News*, June 28, 2018.

⁶⁶ DHS, *Northern Border Threat Analysis Report: Public Summary*, July 2017, at https://www.dhs.gov/sites/default/files/publications/17_0731_Public_Summary_NBSRA_0.pdf.

⁶⁷ DHS, *Northern Border Strategy*, June 12, 2018, at https://www.dhs.gov/sites/default/files/publications/18_0612_PLCY_DHS-Northern-Border-Strategy.pdf.

⁶⁸ Immigration Review Board of Canada, "Irregular Border Crosser Statistics," September 9, 2020; and Immigration, Refugees, and Citizenship Canada, "Asylum Claims By Year – 2011-2016," January 14, 2021.

⁶⁹ For more on Temporary Protected Status, see CRS Report RS20844, *Temporary Protected Status: Overview and Current Issues*, by Jill H. Wilson.

overwhelmed Canada's refugee processing system and strained the resources of aid agencies and local and provincial governments.⁷⁰

Under a 2002 Safe Third-Country Agreement, which requires individuals to claim protection in the first safe country in which they arrive, Canada may immediately return to the United States most asylum-seekers who enter through an official border crossing. Those who enter between ports of entry, however, generally may remain in Canada while their claims are processed.⁷¹ In response to the recent influx, the Canadian government has sought to expand the Safe Third Country Agreement to cover the entire border. Canadian refugee advocates reject that approach and argue the agreement should be suspended to allow asylum-seekers to enter Canada in a safer, more orderly fashion.⁷² In July 2020, the Federal Court of Canada ruled that Canada's laws and regulations implementing the Safe Third Country Agreement violate the country's Charter of Rights and Freedoms based on evidence the United States detains asylum-seekers returned from Canada as a penalty for making protection claims.⁷³ Nevertheless, the agreement is to remain in place pending the results of the Trudeau government's appeal.

The U.S.-Canada border has been closed to all nonessential travel since March 2020, due to the COVID-19 pandemic. In addition to prohibiting cross-border travel for recreation or tourism, the United States and Canada have agreed to turn back all asylum-seekers—effectively applying the Safe Third Country Agreement along the length of the border for the duration of the health crisis. Some Members of Congress have called for the U.S. and Canadian governments to loosen travel restrictions, which have disproportionately impacted residents of border communities. The Trudeau government has made some changes to allow international students and individuals reuniting with family to cross the border but has stated that most restrictions will remain in place until health conditions improve substantially.⁷⁴

Cybersecurity

Both the United States and Canada rely on information technology as a strategic national asset that reaps many economic and societal benefits. This increasing reliance on internet-based systems has created new sets of vulnerabilities. Attacks on critical infrastructure, online influence campaigns, and the theft of digitally stored information, either for military or economic competitive advantage, are growing areas of concern for both countries. In 2014, for example, the Canadian government accused China of carrying out a cyberattack on the National Research Council, Canada's largest federal research and development organization. It reportedly took more than 16 months and C\$100 million (approximately \$77 million) for the Canadian government to mitigate the damage and rebuild the council's networks.⁷⁵ In the past two years, Russia-associated actors reportedly have probed the networks of U.S. and Canadian electric utilities and carried out

⁷⁰ Craig Damian Smith, "Changing U.S. Policy and Safe Third-Country 'Loophole' Drive Irregular Migration to Canada," Migration Policy Institute, October 16, 2019; and Office of the Parliamentary Budget Officer, *Costing Irregular Migration Across Canada's Southern Border*, November 29, 2018.

⁷¹ Immigration, Refugees, and Citizenship Canada, "Claiming Asylum in Canada—What Happens?," March 3, 2017; Sela Cowger, "Uptick in Northern Border Crossings Places Canada-U.S. Safe Third Country Agreement Under Pressure," Migration Policy Institute, April 26, 2017.

⁷² Brennan MacDonald and Vassy Kapelos, "Hussen Floats Possible Solution to Safe Third Country Agreement Loophole," *CBC News*, May 31, 2018.

⁷³ *Canadian Council for Refugees v. Canada (Immigration, Refugees, and Citizenship)*, FC 770 (2020), at <https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/482757/index.do>.

⁷⁴ "Canada to Keep U.S. Border Curbs Until Pandemic Is Much Less Serious," Reuters, October 2, 2020.

⁷⁵ Alex Boutillier, "National Research Council Bought \$8m in New Laptops After Hack," *Toronto Star*, April 10, 2017.

malicious cyber activities against U.S. and Canadian research entities involved in the development of a COVID-19 vaccine.⁷⁶

Recognizing the scope of the threat, the Trudeau government's 2018 and 2019 budgets included nearly C\$1 billion (approximately \$769 million) over five years to implement a new National Cyber Security Strategy.⁷⁷ Those funds allowed Canada to consolidate operational cyber expertise from across the federal government in a new Canadian Center for Cyber Security, housed within the country's signals intelligence agency, the Communications Security Establishment (CSE). The funds also supported the establishment of a new National Cybercrime Coordination Unit within the Royal Canadian Mounted Police to serve as a hub for cybercrime investigations.

Although the new cybersecurity strategy focuses largely on protecting Canadians and critical government and private sector systems, the Trudeau government's defense policy argues that "a purely defensive cyber posture is no longer sufficient."⁷⁸ The Canadian Armed Forces intend to develop "active cyber capabilities" to be employed against potential adversaries in support of government-authorized military missions.⁷⁹ The CSE also may conduct "active" cyber operations; provisions enacted as part of a 2019 overhaul of Canada's foreign intelligence and cybersecurity laws (Bill C-59) authorize the CSE "to degrade, disrupt, respond to or interfere with the capabilities, intentions or activities of a foreign individual, state, organization or terrorist group as they relate to international affairs, defence or security."⁸⁰ Some analysts argue that Canada's shift toward offensive cyber operations carries new risks and that Canada needs to clarify how it intends to use the new capabilities.⁸¹

U.S.-Canada cooperation on cybersecurity is long-standing, both bilaterally and as members of the Five Eyes alliance. In 2012, DHS and Public Safety Canada approved a Cybersecurity Action Plan focused on strengthening cyber infrastructure on both sides of the border. The plan outlined a series of joint commitments intended to enhance collaboration on cyber incident management, increase engagement and information sharing with the private sector, and coordinate public awareness efforts.⁸² Both countries also committed to strengthening their cybersecurity capabilities and collaboration in the digital trade chapter of USMCA. Other bilateral efforts are focused on preventing, responding to, and recovering from critical infrastructure disruptions, including those caused by cyberattacks.⁸³ Although Canada has yet to adopt a comprehensive approach toward the international aspects of cybersecurity, its positions typically have aligned with those of the United States. In September 2019, for example, Canada joined the United States

⁷⁶ Communications Security Establishment, Canadian Centre for Cyber Security, *National Cyber Threat Assessment 2020*, November 2020.

⁷⁷ Public Safety Canada, *National Cyber Security Action Plan: 2019-2024*, 2019, p.1. The National Cyber Security Strategy is available at <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ntnl-cbr-scrtr-strtg/ntnl-cbr-scrtr-strtg-en.pdf>.

⁷⁸ Department of National Defence, *Strong, Secure, Engaged: Canada's Defence Policy*, June 2017, p. 72.

⁷⁹ Department of National Defence, *Strong, Secure, Engaged: Canada's Defence Policy*, June 2017, p. 73.

⁸⁰ Bill C-59, Part 3, Section 19, at <https://www.parl.ca/DocumentViewer/en/42-1/bill/C-59/royal-assent>.

⁸¹ Ken Barker, *Cyberattack: What Goes Around, Comes Around*, Canadian Global Affairs Institute and University of Calgary, School of Public Policy, June 2019; and Josh Gold, Christopher Parsons, and Irene Poetranto, "Canada's Scattered and Uncoordinated Cyber Foreign Policy: A Call for Clarity," *Just Security*, August 4, 2020.

⁸² DHS and Public Safety Canada, *Cyber Security Action Plan*, 2012, at <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/cybrsrt-ctn-plan/cybrsrt-ctn-plan-eng.pdf>.

⁸³ DHS and Public Safety Canada, *Canada-United States Action Plan for Critical Infrastructure*, 2010, at https://www.dhs.gov/xlibrary/assets/ip_canada_us_action_plan.pdf; and Governments of the United States and Canada, *Joint United States-Canada Electric Grid Security and Resilience Strategy*, December 2016, at https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/images/Joint_US_Canada_Grid_Strategy_06Dec2016.pdf.

and 26 other countries in affirming the applicability of international law in cyberspace and pledging to hold states accountable for “bad behavior,” such as targeting critical infrastructure, undermining democracies, and undercutting fair economic competition.⁸⁴

Economic and Trade Policy

As an open economy dependent on world trade, Canada is significantly affected by the global economy and by its largest trading partner, the United States. (See **Table 1** for comparative economic statistics). Like other economies around the world, Canada has experienced a steep contraction due to the COVID-19 pandemic. Although Canada recorded an anemic 1.7% growth rate in 2019, its average growth in the 10 years since the end of the 2008-2009 global financial crisis was a modest 2.2%. Canada’s GDP declined by 0.9% in the first quarter of 2020, 13.0% in the second quarter, and a further 5.2% in the third quarter (see **Figure 3**). Forecasters predict a yearly 2020 average decline of 5.7% (IHS Markit Intelligence [IHS]) to 5.8% (Economist Intelligence Unit [EIU]), but they expect a rebound of 4.0% (EIU) to 4.6% (IHS) in 2021. Canadian unemployment rose from a generational low of 5.6% in 2019 to 13.7% in May 2020. It has fallen gradually since, and both forecasters expect a 2020 yearly average of 9.5%.⁸⁵

Table 1. United States and Canada: Selected Comparative Economic Statistics, 2019
(estimated 2020 figures in parentheses)

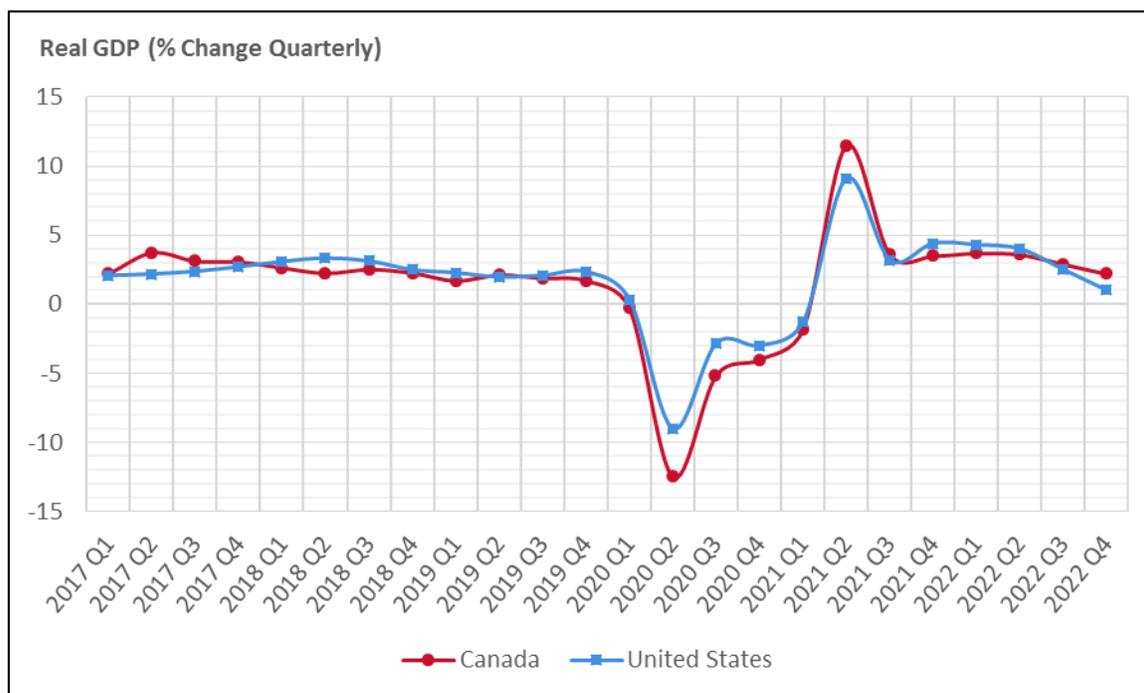
Indicator	United States	Canada
GDP		
Nominal PPP (billion U.S.\$)	21,433 (20,559)	1,929 (1,825)
Per Capita GDP		
Nominal PPP (U.S.\$)	65,133 (63,600)	51,586 (49,850)
Real GDP Growth	2.2% (-4.6%)	1.7% (-5.8%)
Recorded Unemployment Rate	3.7% (8.4%)	5.7% (9.5%)
Exports G&S (% GDP)	11.7% (10.3%)	31.9% (29.9%)
Imports G&S (% GDP)	14.6% (12.7%)	33.5% (31.1%)
Sectoral Components of GDP (%)		
Industry	18.2% (17.2%)	27.1% (26.8%)
Services	81.0% (81.9%)	70.0% (70.9%)
Agriculture	0.8% (0.9%)	2.9% (2.4%)
Budget Balance (% GDP)	-4.6% (-14.9%)	-0.4% (-13.5%)
Public Debt/GDP	79.2% (98.0%)	31.1% (49.1%)
Average MFN Tariff	3.3%	3.9%

Sources: Economist Intelligence Unit (EIU); U.S. Census Bureau; Bureau of Economic Analysis; Statistics Canada; World Bank; World Trade Organization (WTO) Tariff Profiles. 2020 estimates from the EIU.

Notes: GDP = gross domestic product; G&S = goods and services; MFN = most-favored-nation (WTO) tariff; PPP = purchasing power parity.

⁸⁴ U.S. Department of State, “Joint Statement on Advancing Responsible State Behavior in Cyberspace,” September 23, 2019.

⁸⁵ Statistics from Economist Intelligence Unit (EIU) and IHS Markit Intelligence data sets.

Figure 3. Recorded and Projected Real GDP, United States and Canada: 2017-2022

Source: CRS presentation of data from the Economist Intelligence Unit, Country Data Tool, January 2021.

Note: Data for 2017 Q1-2020 Q3 are final, data for 2020 Q4 are estimates, and data for 2021-2022 are projections.

Budget Policy

The Canadian government's response to the COVID-19 crisis, discussed above (see "Minority Government and Pandemic Response"), has swollen the current budget deficit and forecasts for future deficits (see **Figure 4**). On November 30, 2020, Department of Finance Canada released its *Fall Economic Statement 2020*, which forecast the deficit to hit C\$381.6 billion (approximately \$294 billion) in the 2020-2021 fiscal year, a tenfold increase from 2019 and amounting to nearly a fifth of Canada's forecast GDP for 2020.⁸⁶ According to Deputy Prime Minister and Minister of Finance Chrystia Freeland, as of November 30, 2020, the Canadian government had spent C\$322 billion (approximately \$248 billion) on direct measures to fight COVID-19 and provide support to individuals, along with C\$85 billion (approximately \$65 billion) in tax and duty deferrals.⁸⁷

The expanding budget deficit does not appear to have constrained the government's recovery plans. In the *Fall Economic Statement 2020*, the government announced a COVID-19 recovery stimulus plan costing C\$70-C\$100 billion (approximately \$54-\$77 billion) to "build Canada out of this recession towards an economy that is cleaner, more inclusive, more innovative, and more competitive."⁸⁸ The government maintains that "fiscal guardrails"—described as the

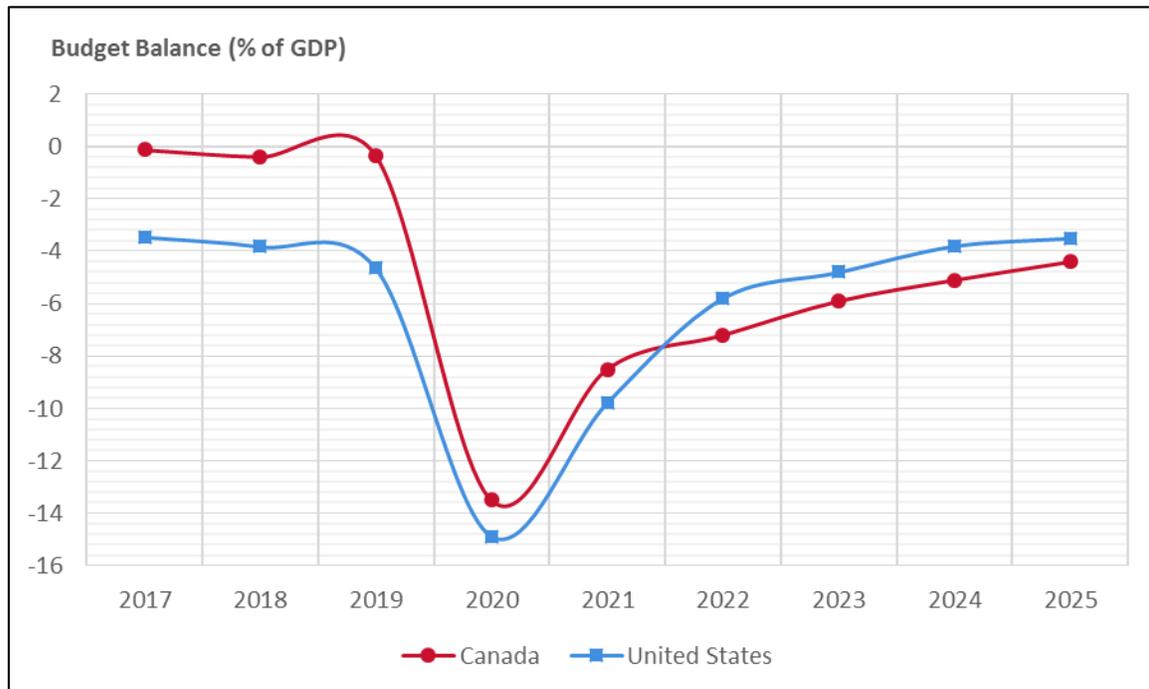
⁸⁶ Department of Finance Canada, *Supporting Canadians and Fighting COVID-19: Fall Economic Statement 2020*, November 30, 2020, p. 104.

⁸⁷ Chrystia Freeland, "Supporting Canadians and Fighting COVID-19," November 30, 2020.

⁸⁸ Chrystia Freeland, "Supporting Canadians and Fighting COVID-19," November 30, 2020.

unemployment rate and other labor-related metrics—will determine the length of the stimulus.⁸⁹ The next budget, due in March 2021, likely will detail the various programs and expenditures.

Figure 4. Recorded and Projected Budget Deficits, United States and Canada: 2017-2025



Source: CRS presentation of data from the Economist Intelligence Unit, Country Data Tool, January 2021.

Note: Data for 2017-2019 are final, data for 2020 are estimates, and data for 2021-2025 are projections.

Government debt has been a sensitive political issue in Canada for generations (see text box, below). The Canadian government maintains that historically low borrowing costs and the lowest federal government debt-to-GDP ratio among the Group of Seven (G-7) facilitate its fiscal plans.⁹⁰ Others take a different view; Fitch, the credit rating agency, downgraded Canada's sovereign debt from AAA to AA+ in June 2020.⁹¹ It noted that Canada's general government debt (federal and provincial) is expected to rise to 115.1% of GDP in 2020 from 88.3% of GDP in 2019. International Monetary Fund projections indicate Canada suffered the worst deterioration in government finances among advanced countries, with the deficit representing 19.6% of the economy in 2020.⁹² Some commentators fear the additional debt burden will have a negative impact on the eventual economic recovery when added to existing structural impediments, such as low productivity in the economy and continued weakness in the oil and gas sector.⁹³

⁸⁹ Department of Finance Canada, *Supporting Canadians and Fighting COVID-19: Fall Economic Statement 2020*, November 30, 2020, p. 72.

⁹⁰ The G-7 includes Canada, France, Germany, Italy, Japan, the United States, and the United Kingdom.

⁹¹ Fitch Ratings, "Fitch Downgrades Canada's Ratings to 'AA+'; Outlook Stable," June 24, 2020.

⁹² International Monetary Fund, "Table 1.1 General Government Fiscal Balance, 2012–25: Overall Balance," in *Fiscal Monitor*, October 2020.

⁹³ Don Drummond, "Canada's Foggy Economic and Fiscal Future," C. D. Howe E-Brief, October 20, 2020.

Debt and Deficits: The Canadian Experience

In 1993, after 27 straight years of deficit spending by both Liberal and Conservative governments prior to an “austerity” budget in 1995, Canada’s public debt reached a peak of 101.6% of gross domestic product (GDP) and government sector spending reached 53.6% of GDP. Realizing this course was unsustainable, the Liberal government of Prime Minister Jean Chrétien and his finance minister, Paul Martin, embarked on a financial austerity plan in 1995, using such politically risky measures as cutting federal funding for health and education transfers, applying a means test to those eligible for Seniors Benefits, and cutting defense spending. Modest tax increases also were employed, mostly through closing loopholes. Under this budget discipline, the government submitted a balanced budget in 1998 and a political consensus emerged not to resort to deficit spending. However, in the face of the global financial crisis in 2009, the Conservative government of Prime Minister Stephen Harper introduced a budget package of stimulus spending and tax cuts, producing a fiscal deficit for the first time in a decade.

From 2009 to 2015, the Conservative government ran deficits; the deficit reached 5% of GDP in 2010 but, through austerity and improved economic conditions, was steadily whittled down to 1.9% of GDP by 2015. The Harper government sought to return Canada to fiscal balance by the 2015 election, resorting to certain one-off savings, such as selling embassies and liquidating (literally) gold coins found in the Bank of Canada vaults. Ultimately, a sluggish economy thwarted those plans and the last Harper budget in 2015 left a C\$3 billion (approximately \$2.3 billion) deficit.

During the 2015 election, Justin Trudeau upended Canadian political orthodoxy by campaigning on a targeted budget deficit—C\$10 billion (about \$7.7 billion) per year for three years—for infrastructure projects to stimulate a sluggish economy reeling from the commodity and energy price collapse at mid-decade. This electoral gambit paid off at the polls, and the Trudeau government has consistently resorted to deficits to fund its programs.

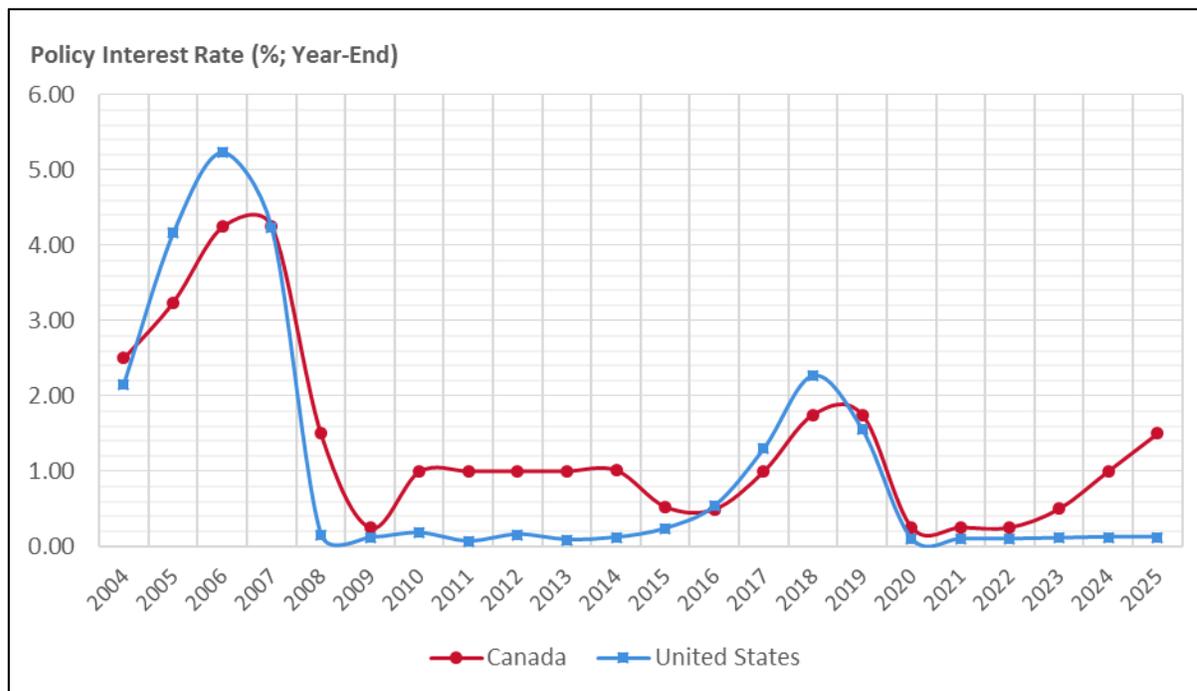
Sources: Bill Curry, “Government Defends Foreign Property ‘Fire Sale,’” *Globe and Mail*, December 4, 2014; Bill Curry, “Bank of Canada’s Gold Coins to be Liquidated in Federal Push to Balance Books,” *Globe and Mail*, December 30, 2013; and Les Whittington and Tonda MacCharles, “No Surplus After All, Due to Sputtering Economy and Harper Spending, Liberals Say,” *Toronto Star*, November 20, 2015.

Monetary Policy

Since the 2008-2009 global financial crisis, the United States and Canada have maintained accommodative monetary policies. The Bank of Canada (BOC) kept its interest rate at 1% from September 2010 until 2015; the BOC lowered its rate twice that year, in January and July, ultimately to 0.5%. Subsequently, the BOC gradually raised its benchmark rate to a high of 1.75% in October 2018. In response to the COVID-19 crisis, the BOC lowered its key rate three times in March 2020 to 0.25%, where it has remained since (see **Figure 5**). In addition, the BOC is engaged in quantitative easing by buying up to \$4 billion in Canadian government bonds per week. The key rate is not expected to rise until at least 2022.⁹⁴

⁹⁴ Don Pittis, “Little Fear of Rate Hike Despite Expected Economic Surge: Bank of Canada,” *CBC News*, January 21, 2021.

Figure 5. Recorded and Projected Policy Interest Rates, United States and Canada: 2004-2025



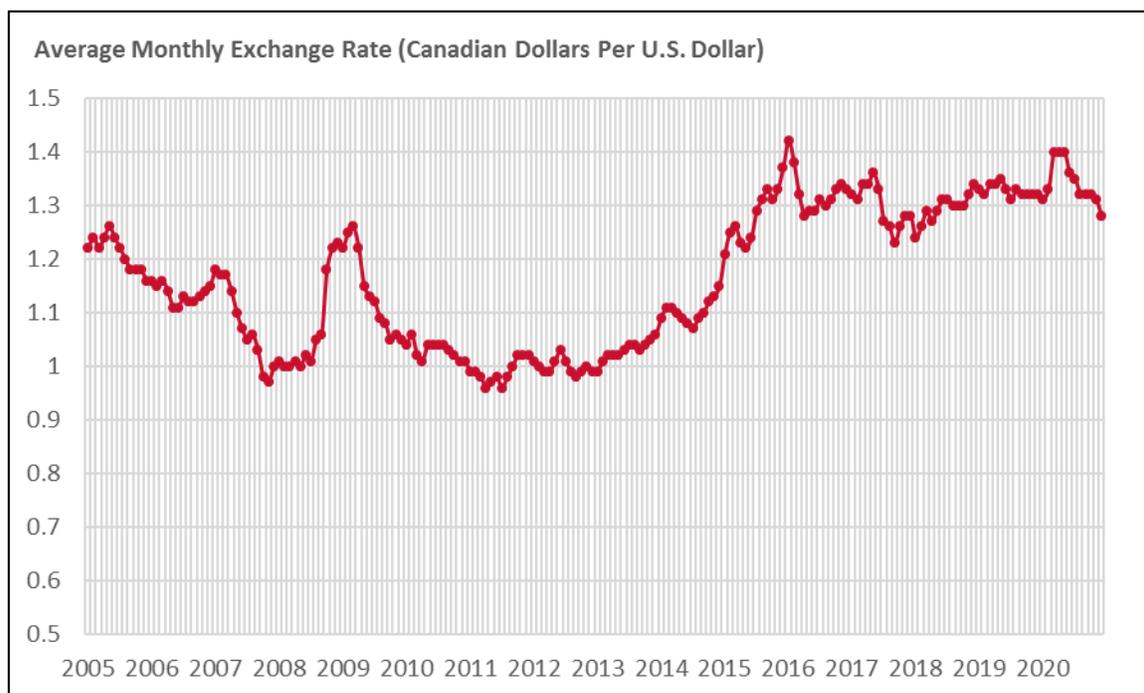
Source: CRS presentation of data from IHS Markit Intelligence, January 2021.

Note: Data for 2017-2020 are final; data for 2021-2025 are projections.

The value of the Canadian dollar (or *loonie*, its nickname) has varied in terms of the U.S. dollar in recent years, often as a result of the demand for commodities (see **Figure 6**). Prior to the global financial crisis of 2008-2009, the Canadian dollar was nearly at parity, trading at slightly less than the U.S. dollar. During the financial crisis, the Canadian dollar dropped to a monthly average of C\$1.26/U.S.\$1. As the economy stabilized and demand for commodities and energy resumed, the Canadian dollar appreciated again to parity, reaching C\$0.96/U.S.\$1 in July 2011. As oil prices dropped and the commodity boom ended, the Canadian dollar began to depreciate; its decline accelerated with the BOC's reduction of interest rates from 1.0% to 0.5% in 2015. The Canadian dollar hit a low of C\$1.42/U.S.\$1 in January 2016. The currency has since rebounded with higher interest rates but has not appreciated above C\$1.20/U.S.\$1.

The strength of the Canadian dollar from roughly 2002 to 2008 and roughly 2010 to 2013 had a detrimental effect on Canadian manufacturing, as export-dependent goods became relatively uncompetitive in world markets. The Canadian auto industry was especially hard hit, as the center of gravity of U.S. production has moved south and new North American investment has bypassed Canada for the United States and, especially, Mexico.⁹⁵ Since the end of the commodities boom, the loonie has depreciated from its generational highs and manufacturing has picked up, but, as with the United States, manufacturing represents a declining share of GDP.

⁹⁵ "The New Rustbelt," *Economist*, August 29, 2015; "Auto Manufacturing in Canada in Long-Term Decline, Report Warns," *Toronto Star*, April 19, 2013.

Figure 6. Exchange Rates: 2005-2020

Source: CRS presentation of data from the Economist Intelligence Unit, Country Data Tool, January 2021.

Investment

The U.S.-Canada economic relationship is characterized by substantial ownership interests in each nation by investors of the other. The United States is the largest single investor in Canada, with a stock of \$402.3 billion in 2019, a figure representing 6.8% of total U.S. foreign direct investment (FDI) abroad. U.S. investors accounted for 46.7% of FDI in Canada in 2019, with manufacturing, finance/insurance, and mining/energy comprising the three largest categories of U.S. FDI. Canada had the third-largest FDI position in the United States in 2019 at \$495.7 billion, 11.1% of the total FDI stock in the United States in that year, trailing only the United Kingdom and Japan. The United States is the most prominent destination for Canadian FDI, with a stock of 45.4% of total Canadian FDI abroad in 2019.⁹⁶

Foreign investment has played a large part in the development of the Canadian economy. British and American capital was instrumental in building Canada's railways in the 19th century and in exploiting its resources in the 20th century. Although Canada generally is open to foreign investment, certain restrictions exist. Investment is monitored, and some types of FDI are reviewed; for example, "significant investments in Canada by non-Canadians" are reviewed under the Investment Canada Act to ensure "net benefit" to Canada. All transactions involving uranium production, financial services, transportation services, or cultural industries must be reviewed.⁹⁷ *Net benefit* is assessed on such factors as

⁹⁶ U.S. Bureau of Economic Analysis (BEA), *Survey of Current Business*, July 2020; Statistics Canada, "Foreign Direct Investment, 2019," July 17, 2020.

⁹⁷ *Cultural business* refers to the publication of books, magazines, periodicals or newspapers; production, distribution, or sale or exhibition of film, video recordings, audio or video musical recordings; publication or dissemination of print music; or radio, television, cable, or satellite broadcasting.

- effect on the level of economic activity in Canada, including employment;
- degree or significance of participation by Canadians;
- effect on productivity and technological development;
- effect on competition;
- effect on Canadian competitiveness in world markets; and
- compatibility with national, industrial, or cultural policies.

Acquisitions by foreign state-owned enterprises are subject to additional scrutiny to assess whether they meet the net-benefit test. The additional criteria include whether the state-owned enterprise adheres to Canadian standards of corporate governance and whether the Canadian business acquired will continue to have the ability to operate on a commercial basis. A transaction also may be reviewed if it raises national security concerns. The 2021 net benefit review threshold for parties to the WTO is C\$1.043 billion (approximately \$802 million). The threshold for FTA partners, including the United States, is C\$1.565 billion (approximately \$1.2 billion), and the threshold for state-owned enterprises is C\$415 million (approximately \$319 million).⁹⁸

U.S.-Canada Trade Relations

The United States and Canada enjoy one of the largest bilateral commercial relationships in the world. Over the past 30 years, U.S.-Canada trade relations have been governed first by the 1989 U.S.-Canada Free Trade Agreement, then by NAFTA, and since July 1, 2020, by USMCA. The two countries were leaders in the creation of the open, rules-based multilateral trading system characterized by mutual concessions on market access for goods and services, disciplines on trade restrictions, and binding dispute-settlement mechanisms. Both countries were founding members of the General Agreement on Tariffs and Trade, the genesis of the postwar multilateral trading system, and were among the founding members of the WTO.

However, some have called this trading system into question due to developments under the Trump Administration, including the Administration's imposition of unilateral tariff measures, withdrawal from the Trans-Pacific Partnership (TPP) regional trade agreement, and skepticism of multilateralism. President Biden has pledged to reinvigorate bilateral cooperation and strengthen economic ties, as well as multilateral institutions.⁹⁹ Nonetheless, his early decision to cancel the Keystone XL pipeline project and his commitment to Buy American policies have caused concern in Canada.

The volume of economic activity across the border underscores the extent of economic integration between the United States and Canada. The two nations have one of the largest trading relationships in the world, with \$1.4 billion of goods crossing the border daily in 2020. Canada remained the largest purchaser of U.S. goods in 2020, accounting for 12.0% of total U.S. merchandise exports. Canada also was the third-largest supplier of U.S. imports in 2020, accounting for 11.6% of total U.S. merchandise imports. The United States is Canada's largest goods export destination and import supplier. In 2020, the United States supplied 48.9% of Canadian goods imports and was the destination of 73.8% of Canadian goods exports. Total two-way trade (goods and services) between Canada and the United States represented nearly 37.6%

⁹⁸ Innovation, Science, and Economic Development Canada, "Investment Canada Act," at <https://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/home>.

⁹⁹ White House, "Readout of President Joe Biden Call with Prime Minister Justin Trudeau of Canada," January 22, 2021.

of Canadian GDP in 2019 (2020 services trade data are not yet available). The United States ran a goods trade deficit of nearly \$15 billion with Canada in 2020. In 2019, the U.S. goods deficit was \$26.8 billion but was offset by a \$29.1 billion services trade surplus for an overall surplus of \$2.3 billion.¹⁰⁰ **Table 2** describes the composition of imports and exports between the United States and Canada.

Table 2. Composition of Trade with Canada 2020: Top 15 Commodities
(billions of U.S.\$)

U.S. Exports to Canada		U.S. Imports from Canada	
Vehicle parts and accessories	11.08	Crude petroleum	42.70
Passenger vehicles	10.63	Passenger vehicles	29.43
Motor vehicles for goods	10.14	Articles returned or repaired	14.69
Low-value export shipments	10.07	Vehicle parts and accessories	7.72
Refined petroleum	6.86	Refined Petroleum	6.73
Crude petroleum	6.53	Lumber	6.17
Civilian aircraft, engines and parts	6.39	Petroleum gases	5.70
Data processing machines	6.28	Unwrought aluminum	4.49
Line telephony and equipment	3.35	Medicaments	4.21
Internal combustion engines	3.02	Aircraft	4.02
Waste and scrap of precious metal	2.70	Gold	3.42
Medicaments	2.66	Polymers of ethylene (raw plastic)	3.01
Centrifuges and parts thereof	2.18	Baked goods and baked commodities	2.98
Taps, cocks, and valves, and parts thereof	2.14	Aircraft engines and parts	2.89
Medical instruments	2.05	Salvage	2.45
All others	169.07	All others	129.73
Total	255.15	Total	270.38

Source: CRS, from U.S. International Trade Commission data.

Notes: Harmonized Tariff Schedule (HTS-4) entries, general imports, total exports.

Trade between the United States and Canada dropped substantially in 2020 from pre-COVID-19 levels. Overall, total trade in 2020 dropped 14.1% from 2019. Exports to Canada fell 12.8%, and imports from Canada dropped 15.3%. Trade in individual commodities reflected these drops. However, U.S. exports of low-value shipments, which includes shop-at-home, mail-order, and goods purchased through e-commerce, increased 36.1% in 2020, likely due to COVID-19

¹⁰⁰ Trade figures are from U.S. International Trade Commission and Bureau of Economic Analysis.

restrictions. Conversely, imports of softwood lumber increased by 41.2% due to the ongoing housing boom in the United States.

The United States also conducts substantial services trade with Canada. In 2019, Canada was both the second-largest consumer of U.S. services and the second-largest supplier of services to the United States. That year, the United States exported \$67.7 billion worth of services to Canada and imported \$38.6 billion, for a surplus of \$29.1 billion. Services exports to Canada accounted for 7.7% of U.S. service exports overall; imports represented about 6.6% of total U.S. service imports. Leading services exports to Canada included travel, professional and management services, intellectual property (computer software, audio visual), and education services.¹⁰¹ In 2019, U.S. service exports represented 54.2% of Canadian service imports and Canadian service exports to the United States represented 56.3% of total Canadian service exports.¹⁰² U.S. travelers accounted for 33.1% of Canada's travel and tourism receipts in 2019; Canadians spent 54.3% of their tourist dollars in the United States that year.

United States-Mexico-Canada Agreement

In May 2017, the Trump Administration sent notification to Congress of its intent to begin talks with Canada and Mexico to renegotiate NAFTA. Following the 90-day consultation period with Congress mandated under Trade Promotion Authority (TPA), negotiations began in August 2017. Initially, much of the discussion revolved around revising and modernizing the nearly 25-year-old accord. All three parties alluded to incorporating new or expanded language from the TPP negotiations on e-commerce, intellectual property rights (IPR), investment, labor, environment, sanitary and phytosanitary standards, state-owned enterprises, data flows, and data localization—requirements to maintain data in country. At times during the negotiations, President Trump threatened to withdraw from NAFTA. The overall gist of U.S. proposals appeared to be aimed at reducing bilateral trade deficits with Canada and Mexico and returning manufacturing jobs to the United States. To that end, the Administration tabled some proposals that Canada and Mexico considered unacceptable or unworkable and subsequently dropped those proposals in the negotiations. On most issues, the negotiating dynamic generally pitted the United States against Canada and Mexico, which were more interested in modernizing the agreement and opposed proposals that would restrict trade.

Initial deadlines to conclude the talks were not met, but the United States and Mexico concluded an agreement on August 30, 2018, allowing the President to provide a 90-day notice to sign an agreement under TPA on November 30, 2018. The United States and Canada subsequently reached agreement in September 2018, and a draft text was released. On November 30, 2018, President Trump, President Enrique Peña Nieto of Mexico, and Prime Minister Trudeau signed USMCA.

With the change in control in the House of Representatives in the 116th Congress, Members of the House Ways and Means Committee and the Trump Administration negotiated changes to several aspects of the agreement. On December 10, 2019, the United States, Canada, and Mexico agreed to a protocol of amendment to the original USMCA text. The revisions include modifications to key elements of the original text regarding dispute settlement, labor and environmental provisions, IPR protection, and steel and aluminum requirements in the motor vehicle industry's

¹⁰¹ International Trade Administration, *Canada – Country Commercial Guide*, at <https://www.trade.gov/knowledge-product/canada-market-overview>.

¹⁰² BEA, *Survey of Current Business*, October 2020; Statistics Canada, “International Transactions in Services, Table 36-10-0007-01,” January 25, 2021.

rules of origin. The revised agreement provides for a facility-specific rapid response labor mechanism to address worker rights provisions.

Implementing legislation was introduced in the House of Representatives (H.R. 5430, 116th Congress) and in the Senate (S. 3052, 116th Congress) in December 2019. The legislation was approved by the House in December 2019, by a vote of 385-41 and by the Senate in January 2020, by a vote of 89-10. President Trump signed the legislation (P.L. 116-113) on January 29, 2020. The agreement entered into force on July 1, 2020.

USMCA maintains most of the existing, largely tariff-free trade created by NAFTA. It provides additional incremental market access in agriculture products with Canada, changes the automotive rules of origin, updates some provisions of NAFTA, and adds new chapters concerning digital trade and state-owned enterprises. The following are some key outcomes of relevance to Canada.¹⁰³ The agreement

- **Tightens automotive rules of origin (ROO).** To receive preferential treatment, autos and auto parts must contain 75% USMCA content, up from 62.5% for autos and 60% for auto parts in NAFTA. In addition, 70% of the steel and aluminum in autos and auto parts must be of USMCA origin and 40%-45% of auto content must be made by workers making at least \$16 per hour. This last provision was supported by Canada, which has a similar wage structure to the United States, although the overall impact of the ROO changes is uncertain.
- **Provides limited tariff-rate quota increases** for U.S. exports of dairy, poultry, and egg products to Canada. Canada also removed its “Class 7” pricing for ultra-high filtration milk.¹⁰⁴ In return, the United States expanded access to Canadian dairy, sugar, peanuts, and cotton.¹⁰⁵
- **Eliminates the investor-state dispute settlement (ISDS)** mechanism between the United States and Canada to enforce alleged violations of investor protection in the investment chapter of the agreement. Canada supported this U.S. proposal. The agreement maintains a more limited U.S.-Mexico ISDS mechanism.
- **Retains the NAFTA binational review mechanism** for antidumping and countervailing duty national administrative decisions. The United States sought the elimination of this review mechanism, whereas Canada supported its retention as a priority issue.
- **Restricts the government procurement chapter** to procurement between the United States and Mexico. U.S.-Canada procurement continues to be governed by the existing WTO Government Procurement Agreement (GPA) to which both countries are party. However, the agreement does not specifically reference the GPA.
- **Expands IPR provisions** to include the following:
 - Extension of copyright term to 70 years after the death of an author or creator (Canada previously provided 50 years)

¹⁰³ For more information on USMCA, see CRS Report R44981, *The United States-Mexico-Canada Agreement (USMCA)*, by M. Angeles Villarreal and Ian F. Fergusson; and CRS In Focus IF10997, *U.S.-Mexico-Canada (USMCA) Trade Agreement*, by M. Angeles Villarreal and Ian F. Fergusson.

¹⁰⁴ Class 7 is a Canadian milk price classification comprised of skim milk components, primarily milk protein concentrates and skim milk powder used to process dairy products.

¹⁰⁵ For more information on USMCA dairy provisions, see CRS In Focus IF11149, *Dairy Provisions in USMCA*, by Joel L. Greene.

- Expansion of patent and regulatory protections for pharmaceuticals (however, extension of exclusivity periods for biologic drugs was dropped from the originally negotiated agreement)
- Prohibitions on circumvention of technological protection measures
- Criminal and civil penalties protections for trade-secret theft, including by state-owned enterprises and cybertheft
- Copyright safe-harbor provisions on internet service provider liability
- Continued exclusion of Canadian cultural industries from national treatment and most-favored-nation treatment

New provisions in USMCA include the following:

- A digital trade chapter to allow for cross-border data flows and to restrict data localization
- Binding obligations on currency manipulation
- A sunset clause requiring a joint review and agreement on renewal of USMCA after 6 years, or the agreement would expire in year 16
- Enforceable disciplines on state-owned enterprises
- Possibility for a party to withdraw from the agreement if another party enters into an FTA with a country it deems to be a nonmarket economy (e.g., China)¹⁰⁶

Canada also was broadly supportive of the additional labor and environmental protections negotiated between the Trump Administration and Congress.

Canada's Network of Free Trade Agreements

In addition to USMCA, Canada has FTAs with several other countries. It signed the TPP FTA and, following the Trump Administration's withdrawal from the accord, negotiated a successor agreement, known as the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP), with 10 other TPP members. CPTPP, which came into effect on December 20, 2018, provides Canada preferential market access for agriculture and livestock to several lucrative Asian markets, including Japan. However, this advantage was somewhat diminished after Japan signed a bilateral trade agreement with the United States in October 2019 affording the United States similar access to Japan's agricultural markets.¹⁰⁷

Canada's Comprehensive Economic and Trade Agreement (CETA) with the EU provisionally came into force on September 21, 2017. This agreement provides preferential market access for goods and certain services (including agriculture), among other provisions, such as provisions on geographical indications—geographical names that protect the quality and reputation of a distinctive product originating in a certain region. For instance, Canada agreed to recognize geographical indications on certain cheeses generally viewed as common food names in the United States, leading to concerns in the U.S. dairy industry about U.S. market access in Canada. In a change from most U.S. FTAs—and previous European FTAs—CETA established an

¹⁰⁶ This provision was widely seen as an attempt to preempt the negotiation of a free trade agreement between Canada and China. However, the deterioration of relations between Canada and China have made the possibility of such an agreement increasingly unlikely (see "Relations with China").

¹⁰⁷ For more information, see CRS In Focus IF11120, *U.S.-Japan Trade Agreement Negotiations*, by Cathleen D. Cimino-Isaacs and Brock R. Williams.

investment court system with an appellate mechanism to resolve disputes arising from CETA's investment chapter instead of relying on ISDS. USMCA's digital trade chapter has more expansive commitments than CETA, such as prohibitions on data localization and restrictions on impediments to cross-border data flows. Those prohibitions, in turn, may affect Canada's ability to maintain its adequacy determination in the EU's General Data Protection Regulation.¹⁰⁸

To replicate CETA with the UK following its departure from the EU, Canada and the UK negotiated a Trade Continuity Agreement (TCA). Signed on December 9, 2020, the TCA rolls over the provisions of CETA and may serve as a bridge for a comprehensive bilateral FTA, which the two sides hope to negotiate within three years.¹⁰⁹ In addition, Canada has FTAs in force with South Korea and with several countries in Central and South America.

Disputes

U.S.-Canada trade relations took on a different tone during the Trump Administration than during previous U.S. Administrations. Whether it was the reemergence of old irritants, such as trade in softwood lumber and dairy restrictions; the emergence of new disputes, such as Section 232 tariffs on steel or aluminum; or the presence of contentious USMCA negotiations, the commercial relationship between the two nations faced new challenges. Perhaps characteristic of his sentiments, President Trump commented on the various trade disputes in a June 2018 tweet, writing "Canada has treated our Agricultural business and Farmers very poorly for a very long period of time. Highly restrictive on Trade! They must open their markets and take down their trade barriers! They report a real high surplus on trade with us. Do Timber & Lumber in U.S.?"

The Biden Administration may take a less confrontational approach to trade relations with Canada. However, some long-standing issues, such as softwood lumber, Canadian dairy access, and IPR protections, may see further activity in 2021 and remain of congressional interest.

Softwood Lumber

Trade in softwood lumber, now in its fifth iteration of litigation, traditionally has been one of the most controversial topics in the U.S.-Canada trading relationship. The dispute revolves around different pricing policies and forest management structures in the two countries. In Canada, most forests are owned by the Canadian provinces as Crown lands; in the United States, most forests are privately held. The Canadian provinces allocate timber to producers under long-term tenure agreements and charge a *stumpage fee*, which U.S. producers maintain is not determined by market forces but rather acts as a subsidy to promote the Canadian industry, sectoral employment, or regional development. Canada denies that its timber management practices constitute a subsidy and maintains that it has a comparative advantage in timber and a more efficient industry than the United States.

Until October 2015, trade in softwood lumber was governed by a seven-year agreement—reached in 2006 and subsequently extended for two years, to 2015—restricting Canadian exports to the United States. As part of a complicated formula, the United States allowed unlimited imports of Canadian timber when market prices remained above a specified level; when prices fell below

¹⁰⁸ Max Jarvie, "Canada: Cross-Border Transfers and Data Localisation After the USMCA," *Data Guidance*, June 2020. For information, see also CRS In Focus IF10896, *EU Data Protection Rules and U.S. Implications*, by Rachel F. Fefer and Kristin Archick.

¹⁰⁹ Janyce McGregor, "Canada-U.K. Trade Deal Signed—But Implementing Bill Unlikely to Meet Deadline," *CBC News*, December 9, 2020.

that level, Canada imposed export taxes and/or quotas. In addition, the United States returned to Canada a large majority of the duties it had collected from previous trade remedy cases.

The current dispute (Lumber V) started when the 2006 agreement expired. After a year-long grace period, a coalition of U.S. lumber producers filed trade remedy petitions on November 25, 2016, which claimed that Canadian firms dump lumber in the U.S. market and Canadian provincial forestry policies subsidize Canadian lumber production. These petitions subsequently were accepted by the two U.S. agencies that administer the trade remedy process: the International Trade Commission (ITC) and the Department of Commerce's International Trade Administration (ITA).

On December 7, 2017, the ITC determined imports of softwood lumber, which ITA had previously determined to be dumped and subsidized, caused material injury to U.S. producers. This finding meant ITA's final duties in the antidumping and countervailing duty proceedings, announced on November 2, 2017, could be imposed on affected Canadian lumber. ITA found subsidization of the Canadian industry and determined a subsidy margin of 3.34%-18.19% on Canadian lumber, depending on the firm. ITA found dumping margins of 3.20%-8.89%, also firm dependent. The antidumping and countervailing duties were imposed on January 3, 2018.

Canada challenged these trade remedy decisions at the WTO and at NAFTA/USMCA antidumping and countervailing duty binational review panels. Canada challenged the consistency of the antidumping and countervailing duties with applicable WTO agreements, and panels were established in April 2018.¹¹⁰ In the antidumping case, a WTO panel ruled in an April 2019 split decision that ITA calculated dumping margins in a manner inconsistent with the WTO Anti-Dumping Agreement but ruled that the methodology used by ITA was consistent with the WTO agreement.¹¹¹ Canada appealed the ruling to the Appellate Body in June 2019. Another panel issued a report in the countervailing duty case in August 2020.¹¹² The panel decided the United States violated the WTO Agreement on Subsidies and Countervailing Measures by improperly rejecting Canadian use of benchmark prices for softwood lumber in various provinces. The United States appealed this decision in September 2020. Both appeals currently are in limbo in the void of the nonfunctioning appellate body.

Canada also is challenging the duties under the USMCA Chapter 10 bilateral review mechanism. The purpose of this review is to determine whether the administrative review bodies (ITA and ITC) adhere to U.S. law and regulation in making those determinations. On December 14, 2020, Canada filed its first request for panel review under the USMCA mechanism to challenge the countervailing duties on Canadian lumber.¹¹³ Canada also challenged the duties under the previous NAFTA binational panel. Canada filed challenges to the final affirmative countervailing duty determination in November 2017, and to the final affirmative antidumping determination in December 2017. In September 2019, the panel found the ITC erred in the methodology and data it

¹¹⁰ For background on trade remedies, see CRS In Focus IF10018, *Trade Remedies: Antidumping and Countervailing Duties*, by Vivian C. Jones and Christopher A. Casey.

¹¹¹ World Trade Organization (WTO), "DS534: United States—Antidumping Measures Applying Differential Pricing Methodology to Softwood Lumber from Canada," at https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds534_e.htm.

¹¹² WTO, "DS533: United States—Countervailing Measures on Softwood Lumber from Canada," at https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds533_e.htm.

¹¹³ Statement of Mary Ng, International Trade Minister, December 14, 2020.

used to determine the U.S. domestic industry was injured by Canadian imports and ordered the ITC to reevaluate its data.¹¹⁴

Dairy

On December 9, 2020, the office of the U.S. Trade Representative (USTR) sought its first consultation under USMCA's Chapter 31 state-state dispute mechanism on dairy access under the agreement. Although USMCA did not end Canada's supply management system for dairy, poultry, and eggs (see text box, below), it provided limited tariff-rate quota (TRQ) increases for U.S. exports. In distributing the additional quotas, USTR alleged Canada retained a portion of the quota for domestic processors and further processors, which USTR maintained violates USMCA. According to USTR, "this restriction undermines the value of Canada's TRQs for U.S. producers and exporters by limiting their access to in-quota quantities negotiated under the USMCA."¹¹⁵ Under the dispute mechanism, parties initially enter into consultations to resolve the dispute. If these consultations are not successful, a party may request the establishment of a panel no earlier than 75 days after the initial request for consultation.

Supply Management for Dairy, Poultry, and Eggs

Canada uses supply management to support its dairy, poultry, and egg sectors. Although the United States-Mexico-Canada Agreement (USMCA) provided greater access to these markets, it did not dismantle the system. Supply management's main features (1) provide price support to producers based on their production costs and return on equity and management, (2) limit production to meet domestic demand at the cost-determined price, and (3) restrict imports to protect against foreign competition. The Canadian government has supported producers' decisions to use this approach for more than 40 years, and it succeeded in limiting imports of these products in negotiating the U.S.-Canada Free Trade Agreement; NAFTA; USMCA; its multilateral commitments in the Uruguay Round's Agreement on Agriculture; and, for the most part, its bilateral free trade agreements.

National bodies and provincial commodity marketing boards, granted statutory powers by the federal and provincial governments, control the supply management systems for these commodities. At the national level, the amount of each commodity that producers can market is controlled by a quota system. Imports of each commodity are limited by tariff-rate quotas. These quotas allow a specified amount to enter annually under Canada's trade commitments at little or zero duty but apply a very high tariff (over 200% in many cases) on imports above the specified level or quota amount. Both tools work together to control the supply of each commodity, but the objective is to ensure producers receive a price that guarantees them a return that covers their production costs. The quota is set to balance supply with demand at that price and is frequently adjusted to ensure this balance is achieved. Producers of these commodities must participate in their respective supply management systems, with farm-level production subject to individual quota limits that can be sold only into permitted marketing channels.

Producers of these commodities point out the benefits of the supply management approach, which they say has significantly reduced price volatility. The stability of prices over time, combined with the guarantee that covers production costs, has provided income support. Others note that these features have resulted in the lack of market orientation for these commodities, as the value of supply management has become capitalized, or incorporated, into the value of the quota. In other words, those who hold quota (i.e., renting it out) benefit more than the producers themselves. Conversely, consumers end up paying more for these products, and some Canadians near the border cross over to the United States for their milk and egg runs.

¹¹⁴ "NAFTA Panel: ITC Acted Improperly in U.S.-Canada Softwood Lumber Case," *Inside U.S. Trade*, September 6, 2019.

¹¹⁵ USTR, "United States Takes Action for American Dairy Farmers by Filing First-Ever USMCA Enforcement Action," press release, December 9, 2020.

Intellectual Property Rights

Canada has been placed on USTR’s Special 301 “watch list,” or priority watch list, for IPR protections every year since 2013.¹¹⁶ In 2018, Canada enacted its Copyright Modernization Act, which implemented the World Intellectual Property Organization Copyright Treaty and Performance and Phonograms Treaty.¹¹⁷ The act is analogous to the U.S. Digital Millennium Copyright Act (P.L. 105-304). The Canadian act allowed for some format shifting (right to copy/back up for private purposes) and fair-dealing (fair-use) exceptions for legitimate purposes (e.g., news, teaching, and research) but prohibited the circumvention of digital protection measures. It also clarified the rights and responsibilities of internet service providers regarding infringement of their subscribers and provided for a “notice-and-notice system” to warn potential infringers.

In 2020, Canada remained on USTR’s watch list, its mildest category of rebuke.¹¹⁸ Many concerns in previous Special 301 reports were ameliorated by the implementation of USMCA. IPR provisions in USMCA affecting Canada include the following:

- Lengthening copyright terms to 70 years from 50 years in force in Canada
- Authority for ex officio seizure of counterfeit and pirated goods at the border or in transit; Canada has legislated the former, but not the latter
- “Meaningful” penalties for technological circumvention measures
- New transparency requirements for geographical indications
- Patent term restoration and patent linkage provisions

As a result of the CETA, Canada revamped its regulations on patent term restoration and patent linkage. Canada is to provide two years of patent term restoration if marketing authorization takes longer than five years from the filing of a basic patent. The additional patent protection applies only to the pharmaceutical product covered by the marketing authorization, not by subsequent modifications of uses, methods, or processes. In the *2018 Special 301 Report*, USTR called the changes “disappointingly limited in duration, eligibility, and scope of protection.”¹¹⁹

Canada also changed its patent linkage system to comply with CETA, which was a long-standing goal of the United States. Under Canada’s previous system, the Patent Medicines (Notice of Compliance) regulations, a generic drug maker could seek marketing approval by challenging the validity of the patent and claiming noninfringement. The system allowed a patent owner to apply to federal court to keep a generic company’s potentially infringing medicine off the market. However, the burden of proof was on the patent holder, and if the appeal was unsuccessful, a notice of compliance was issued, rendering moot any further challenge to the authorization. A patent holder could start again by launching a patent infringement lawsuit, with the resultant duplication of effort. As of September 21, 2017, Canada replaced that system with a single-track

¹¹⁶ In the 2018 Special 301 report, Canada was downgraded to “priority watch list” status due to what USTR contends is “a failure to resolve longstanding deficiencies in protection and enforcement of IP.” For more information on Special 301, see CRS Report RL34292, *Intellectual Property Rights and International Trade*, by Shayerah I. Akhtar, Ian F. Fergusson, and Liana Wong.

¹¹⁷ The World Intellectual Property Organization Copyright Treaty updates existing copyright protections for internet and other electronic media.

¹¹⁸ USTR, *2020 Special 301 Report*, April 2020, at https://ustr.gov/sites/default/files/2020_Special_301_Report.pdf.

¹¹⁹ USTR, *2018 Special 301 Report*, April 2018, p. 60.

process resulting in final determinations of patent infringement and validity, providing both sides with equivalent rights of appeal.¹²⁰

The *2020 Special 301 Report* drew attention to Canada's Patent Medicine Prices Review Board (PMPRB), especially to updates to the board's guidelines scheduled to enter into force on July 1, 2021. The PMPRB is an independent quasi-judicial body established by Parliament under the Patent Act in 1987. Its stated mandate is "to protect and inform Canadians by ensuring that the prices of patented medicines sold in Canada are not excessive and by reporting on pharmaceutical trends."¹²¹ The board does not set prices on its own, but it can refer what it considers excessive prices a patentee charges for strengths and forms of a patented medicine to an arbitral panel. Such a panel can order the price be reduced if it finds a particular patented medicine to be priced at an excessive level. The board's determinations are used to provide stakeholders with price, cost, and utilization information to help them to make pricing, purchasing, and reimbursement decisions.¹²² The proposed changes to its guidelines include the following:

- Pricing benchmarked against countries that PMPRB has deemed to be similar to Canada in terms of economic development and from the standpoint of consumer price protection.
- Maximum price consideration to factor the overall value of a medicine using factors such as pharmacoeconomic analysis, market size, and affordability for both payers and patients based on national and per capita GDP.¹²³

A third factor that would have based regulatory review on actual prices paid in Canada, taking into account confidential discounts and rebates provided to payers, was blocked by a Canadian federal court decision holding that PMPRB cannot mandate the reporting of third-party rebates.¹²⁴ The international comparison uses 11 countries (Australia, Belgium, France, Germany, Italy, Japan, the Netherlands, Norway, Spain, Sweden, and the United Kingdom).¹²⁵

USTR maintains these changes "would dramatically reshape how the Patented Medicine Prices Review Board evaluates patented pharmaceuticals and sets their ceiling prices." It maintains that the changes "would significantly undermine the marketplace for innovative pharmaceutical products, delay or prevent the introduction of new medicines in Canada, and reduce investments in Canada's life sciences sector."¹²⁶

Government Procurement

The Biden Administration's commitment to domestic sourcing for U.S. government procurement may renew a periodic irritant in the U.S.-Canada bilateral economic relationship. On January 25, 2021, President Biden issued an executive order that aims to increase the procurement of domestic goods and services. It would centralize the process by which waivers for government

¹²⁰ "Publication of Final Regulations on Patent Linkage and Term Restoration," Smart and Biggar, September 8, 2017.

¹²¹ Patent Medicine Prices Review Board (PMPRB), *2018 Annual Report*, February 28, 2020.

¹²² PMPRB, *2018 Annual Report*, February 28, 2020.

¹²³ Pharmacoeconomic analysis is used to identify, measure and conduct cost-benefit analysis of programs, services, or therapies to determine the best health outcome for the resources invested. PMPRB, "PMRB Framework Modernization," presentation at Telus Health Annual Conference, March and April 2019.

¹²⁴ Teresa Reguly and Eileen McMahon, "The Wait Is Over: Canada's PMPRB Releases Final Guidelines," Torys LLC, November 2, 2020.

¹²⁵ The last revision of the list in 2019 dropped the United States and Switzerland.

¹²⁶ USTR, *2020 Special 301 Report*, April 2020, p.15.

purchases of foreign-made products are granted and subject waiver requests to additional scrutiny. It also would seek to make changes to implementing regulations for domestic sourcing laws, such as the Buy American Act of 1933 (41 U.S.C. 8301 et seq.), by raising domestic content requirements and price preferences, and it would develop recommendations to expand domestic procurement policies to information technologies, among other provisions.¹²⁷ Canada reportedly will seek to negotiate exemptions to the proposed regulations.¹²⁸

In general, the Buy American Act and various Buy American government procurement provisions in U.S. legislation restrict procurement contracts to the use of U.S.-made end products and construction materials. U.S. regulation defines domestic end products and construction materials as unmanufactured end products or construction materials produced in the United States or end products or construction materials in which the cost of the components mined, produced, or manufactured in the United States exceeds 55% of the cost of all components (and more than 95% for iron and steel products).¹²⁹ Buy American provisions, which include transportation infrastructure funding, impose domestic content restrictions on federally funded grant projects contracted at the state or local level (so-called *pass-through projects*). Although federally funded, these projects are not considered federal procurements.

The Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.) permits some of these provisions to be waived for eligible or covered products and services from countries that

- are parties to the WTO Agreement on Government Procurement (GPA);
- have signed an FTA with the United States that provides reciprocal competitive government procurement opportunities to U.S. products, services, and suppliers; or
- benefit from U.S. unilateral trade preferences (e.g., Caribbean Basin countries).¹³⁰

As a signatory to the GPA, Canada receives nondiscriminatory treatment for covered procurement in the United States on its products and services. The GPA is a plurilateral agreement that binds only those WTO members that agree to undertake obligations under it. Furthermore, the GPA applies only to the sectors and procurement that the national government and subnational (e.g., states or provinces) government agencies agree to include in their schedule of national commitments, as well as above a certain monetary threshold. Canadian firms and suppliers are eligible to bid on procurements under the above provisions. However, Buy American projects (described above) are not covered procurements under the agreement.

NAFTA also contained a government procurement chapter. In USMCA negotiations, Canada sought to expand reciprocal procurement opportunities in the U.S. market, whereas the Trump Administration sought to restrict those opportunities or eliminate the chapter entirely. The final agreement retains a more limited government procurement chapter than NAFTA with respect to Mexico but excludes U.S.-Canada procurement. In seeking to maintain government procurement

¹²⁷ Executive Order 14005, “Ensuring the Future Is Made in All of America by All of America’s Workers,” January 25, 2021, 86 *Federal Register* 7475, January 28, 2021.

¹²⁸ Adrian Morrow and Stephen Chase, “Ottawa to Press Biden on Exemption from ‘Buy American’ Rules,” *Globe and Mail*, January 25, 2021.

¹²⁹ For more information, see CRS In Focus IF11580, *U.S. Government Procurement and International Trade*, by Andres B. Schwarzenberg.

¹³⁰ For more information, see CRS In Focus IF11651, *WTO Agreement on Government Procurement (GPA)*, by Andres B. Schwarzenberg.

opportunities in the United States, Canada has pointed to tightly integrated supply chains with Canadian finished products containing U.S. components and vice versa.¹³¹ In the USMCA debate, some U.S. firms expressed concerns that procurement opportunities under the GPA are not as extensive as those available to Canada's other FTA partners in Europe and Asia, giving those countries an advantage in Canadian procurement opportunities over U.S. firms.¹³²

Steel and Aluminum Tariffs

On March 8, 2018, President Trump signed proclamations imposing tariffs on steel (25%) and aluminum (10%) on several nations under Section 232 of the Trade Expansion Act of 1962, as amended, after the Commerce Department determined that current imports threaten national security. Canada and Mexico initially were excluded from the tariffs as an “incentive” to a favorable conclusion of the NAFTA renegotiations. Both Canada and Mexico rejected the linkage, and tariffs were imposed on both countries on June 1, 2018.¹³³ Canada maintained that, as a part of the U.S. defense industrial base and a NATO ally, it should be excluded on national security grounds. Prime Minister Trudeau called the tariffs “an affront to the longstanding security partnership between Canada and the United States, and, in particular, to the thousands of Canadians who have fought and died alongside American comrades in arms.”¹³⁴

On May 31, 2018, Canada announced retaliatory tariffs of \$12.8 billion to begin on July 1, 2018. U.S. steel and steel products faced tariffs of 25%; U.S. aluminum and a host of other U.S. consumer products faced 10% tariffs.¹³⁵ The Canadian tariffs were targeted to extract maximum political cost. Canada brought a case challenging the duties under WTO dispute settlement, and it sought recourse under NAFTA's state-to-state dispute settlement mechanism.¹³⁶ Canada subsequently dropped these cases.

The signing of USMCA led to the withdrawal of all Section 232 steel and aluminum tariffs and related retaliatory tariffs in May 2019. At the same time, the USMCA partners announced a new monitoring mechanism to prevent surges in imports of steel and aluminum. USMCA also contained a side letter, which would exempt 2.6 million vehicles and \$108 billion of auto parts annually from the possible imposition of any Section 232 tariffs on motor vehicles. The Trump Administration reimposed a 10% *ad valorem* aluminum tariff by proclamation in August 2020, after President Trump accused Canada of breaking a commitment to maintain stable levels of aluminum exports.¹³⁷ Following the release of the Canadian retaliation list targeting \$2.7 billion in U.S. aluminum and aluminum products, USTR rescinded the aluminum tariffs maintaining that imports from Canada were “likely to normalize” in the remainder of 2020.¹³⁸

¹³¹ Kate Bolongaro, “Canada Worries About Biden’s ‘Buy American’ After Keystone Blow,” *Bloomberg Government*, January 24, 2021.

¹³² *USMCA Agreement: Addendum to the Earlier (September 28, 2018) Report of the Industry Trade Advisory Committee on Automotive Equipment and Capital Goods*, October 24, 2018.

¹³³ “Canada, Mexico Reject Linkage of Steel, Aluminum Tariffs to NAFTA Talks,” *Inside U.S. Trade*, March 16, 2018.

¹³⁴ Justin Trudeau, Prime Minister of Canada, “Remarks by the Prime Minister of Canada on Steel and Aluminum Tariffs Imposed by the United States,” May 31, 2018.

¹³⁵ Department of Finance Canada, “Notice of Intent to Impose Countermeasures Action against the United States in Response to Tariffs on Canadian Steel and Aluminum Products,” press release, May 31, 2018.

¹³⁶ Global Affairs Canada, “Canada Files World Trade Organization and North American Free Trade Agreement Litigation in Response to Illegal U.S. Tariffs,” press release, June 1, 2018.

¹³⁷ “Trump Confirms He Will Re-impose Tariffs on Canadian Aluminum,” *Inside U.S. Trade*, August 6, 2020.

¹³⁸ USTR, “USTR Statement on Canadian Aluminum,” press release, September 15, 2020.

Energy

Canada is the United States' largest supplier of imported energy, including oil, uranium, natural gas, and electricity. In 2019, Canada was the world's fifth-largest petroleum producer; the country's reserves—largely in the form of bitumen oil reserves—are believed to be the third largest in the world, after those of Venezuela and Saudi Arabia.¹³⁹ In 2020, the value of U.S. petroleum and natural gas imports from Canada was \$55.2 billion, falling from a peak of \$112.4 billion in 2014.¹⁴⁰ This figure largely represents the falling value of crude oil and natural gas, in part due to growing production in the United States from shale. Although the value of crude oil imports dropped, the volume of trade had continued to increase until 2020 (see **Table 3**). In 2020, Canada provided 61.1% of U.S. crude oil imports (up from 19.96% in 2010)—about 1.3 billion barrels/day—and supplied 87.6 % of U.S. natural gas imports.¹⁴¹ Canada is the largest supplier to the United States of processed uranium. Canada also is a net exporter of electricity to the United States through a heavily connected North American electricity grid. Canadian electricity is primarily renewable (60% hydro, 7% solar and wind) and, along with nuclear (15%), non-GHG-emitting generation makes up 82% of supply.¹⁴² Many analysts consider Canada to be a particularly valuable energy partner for the United States, because Canada provides a reliable supply (it is not a member of OPEC) and reduces U.S. dependence on the rest of the world.

Table 3. U.S. Crude Oil Imports from Canada: 2016-2020

	2016	2017	2018	2019	2020
Value (bn\$)	36.2	50.1	60.8	62.7	42.7
Volume (million barrels)	1,099.3	1,211.6	1,255.2	1,338.5	1,275.5
% of total imports (barrels)	39.0	41.9	46.6	56.2	61.1

Source: Trade Data Monitor, General Imports.

Keystone XL Pipeline¹⁴³

Upon inauguration, President Biden revoked the required presidential permit for the cross-border construction of the Keystone XL pipeline, complicating the controversial pipeline's future.¹⁴⁴ The permit allowed for the construction of a 1.4-mile stretch over the border, which has been completed, but also for its operation, which has yet to commence. The President's action is the latest roadblock for the pipeline. Originally, the Obama Administration denied a presidential permit in 2015. The Trump Administration revived the pipeline, issuing new permits in 2017 and 2019. Opponents of the pipeline, including environmental, agricultural, and landowner interests,

¹³⁹ Energy Information Administration, "Canada Analysis Executive Summary," October 7, 2019.

¹⁴⁰ Data based on Harmonized Tariff Schedule codes 2709, 2710, and 2711.

¹⁴¹ U.S. Census Bureau data, as presented by *Trade Data Monitor*, accessed February 2021.

¹⁴² Natural Resources Canada, "Electricity Facts," October 6, 2020.

¹⁴³ For more information, see CRS Insight IN11445, *Keystone XL Pipeline: The End of the Road?*, by Paul W. Parfomak.

¹⁴⁴ Executive Order 13990, "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis," 86 *Federal Register* 7037-7043, January 25, 2021.

challenged those permits in U.S. courts, further delaying construction. If completed, Keystone XL would be the main new pipeline to bring Canadian oil to the United States.

The Trudeau government has maintained a delicate balance on Keystone XL, continuing to support pipeline construction while pursuing other aspects of the government's climate strategy (see "Climate Change," below). Prime Minister Trudeau expressed muted criticism of the cancellation, stating, "While we welcome the President's commitment to fight climate change, we are disappointed but acknowledge the President's decision to fulfil his election campaign promise on Keystone XL."¹⁴⁵ Leaders of the oil producing provinces criticized the move, with Alberta Premier Jason Kenney describing the action as a "gut punch" to U.S.-Canada trade relations and calling on the Canadian federal government to impose trade sanctions on the United States if the decision is not reconsidered.¹⁴⁶ The Alberta government was a stakeholder in the project, investing C\$1.5 billion (approximately \$1.2 billion) in the pipeline's provincial construction.¹⁴⁷ TC Energy, the owner of the pipeline, announced it is suspending the project and laying off 1,000 workers on both sides of the border, while assessing its future options.¹⁴⁸ The company could seek compensation under NAFTA's legacy ISDS provisions, seek redress in U.S. courts, or encourage the Canadian government to bring a case under USMCA's state-state dispute settlement chapter.

Trans-Mountain Pipeline

The controversy over Keystone XL arguably has heightened the importance of the interprovincial Trans-Mountain Pipeline for the Canadian petroleum industry. However, the fate of that pipeline's expansion is unclear. In November 2016, Prime Minister Trudeau announced the approval of a project to expand the Trans-Mountain Pipeline through British Columbia to Vancouver, which may result in increased exports to China and other Asian markets. The project has been beset with delays and controversy from its inception. It has pitted the pipeline owners and oil sands producers seeking additional ways to export bitumen against environmentalists, climate activists, and some, but not all, First Nation bands (tribes). It also has produced acrimony between the provincial governments of Alberta, which wants the project to proceed, and British Columbia, which does not.

On May 29, 2018, Canada's federal government announced it would buy the existing pipeline and the expansion project for C\$4.5 billion (about \$3.5 billion) from U.S. pipeline firm Kinder Morgan to complete the project as a Crown corporation. Later that year, the Federal Court of Appeal overturned the government's first approval of the pipeline, citing insufficient consultation with certain First Nations bands and an improper assessment of its effect on marine life. A subsequent approval also was challenged by First Nations bands, but the Supreme Court of Canada declined to review a Federal Court of Appeals ruling upholding the government's second approval in July 2020.¹⁴⁹

¹⁴⁵ Justin Trudeau, Prime Minister of Canada, "Statement by the Prime Minister of Canada on the United States' Decision on the Keystone XL Project," January 20, 2021.

¹⁴⁶ Ashley Joannou and Lisa Johnson, "Kenney Calls on Federal Government to Impose Trade Sanctions If Biden Does Not Review Keystone XL Decision," *Edmonton Journal*, January 21, 2021.

¹⁴⁷ Government of Alberta, "Investing in Keystone XL Pipeline," 2021.

¹⁴⁸ TC Energy, "TC Energy Disappointed with Expected Executive Action Revoking Keystone XL Presidential Permit," press release, January 21, 2021; and "TC Energy to Cut 1,000 Keystone XL Jobs," *Toronto Star*, January 22, 2021.

¹⁴⁹ "Supreme Court Dismisses First Nations' Challenge Against Trans Mountain Pipeline," *CBC News*, July 2, 2020.

Environmental and Transboundary Issues

The United States and Canada have concluded a wide array of environmental and natural resources agreements at the federal, state/provincial, and local levels to manage transboundary issues. In recent years, some Members of Congress have examined the work of the International Joint Commission (IJC), a binational organization created by the 1909 Boundary Waters Treaty to investigate and recommend solutions to transboundary water concerns, including those facing the Great Lakes (see “Great Lakes”). Others have tracked negotiations over potential modifications to the Columbia River Treaty, which provides for the cooperative development and operation of the water resources of the Columbia River Basin in the northwestern United States and southwestern Canada (see CRS Report R43287, *Columbia River Treaty Review*). President Biden and Prime Minister Trudeau have pledged to work together to combat climate change, which could include increased cooperation in the Arctic (see “Climate Change” and “The Arctic”).

Climate Change

Canada and the United States have experienced similar debates over whether and how to address GHG-induced climate change. Both populations emit among the highest levels of GHG per person worldwide due to a number of factors, including high income and consumption levels, dependence on personal vehicles and trucking, long travel distances, and cold winters (see **Table 4**). Further, national infrastructures were constructed in the context of inexpensive and generally abundant fossil fuels, which are responsible for the majority of GHG emissions. Both countries also have regions strongly dependent on producing and processing fossil fuels. Regulation of energy is primarily a provincial or state authority in both Canada and the United States.

Environmental protection authorities are shared by the federal and sub-federal governments in both countries. Canada typically has sought policies compatible with those of the United States with the understanding that there could be significant economic benefits in harmonizing aspects of GHG and other pollution control strategies to facilitate trade and make compliance easier for transnational businesses.

Table 4. Selected Greenhouse-Gas (GHG) Emissions Indicators in Canada and the United States

	Canada	United States
Total GHG Emissions in 2017	0.7 Gt CO ₂ e	5.7 Gt CO ₂ e
GHG Emissions per Capita in 2017	18.9 t CO ₂ e	17.7 t CO ₂ e
GHG Emissions per GDP in 2017	419 t CO ₂ e	295 t CO ₂ e
Share of Global CO ₂ Emissions Related to Energy in 2018	1.67%	14.7%
Share of Global GDP in 2019	1.4%	15.8%

Sources: For 2017 data, World Resources Institute, Climate Watch, “Country Profiles,” using all GHG and land use, land use change, and forestry emissions and removals, at <https://www.climatewatchdata.org/countries/>. For 2018 data, International Energy Agency, *Key World Energy Statistics 2020*, pp. 60-69. For 2019 data, World Bank, “DataBank” using GDP (PPP in constant 2017 \$).

Notes: CO₂ = carbon dioxide; CO₂e = carbon dioxide-equivalent; GDP = gross domestic product.

Both nations also perceive certain vulnerabilities to climate change, including increasing forest and habitat losses and fires, public health effects of heat episodes and expanding disease vectors, increasing costs of cooling, and risks to coastal communities due to more intense storms and sea-

level rise. Shrinking sea-ice extent in the Arctic brings opportunities and concerns for both countries, due to the effects on indigenous populations and increased commercial activity, shipping, tourism, and risks of associated accidents, as well as dramatically changing ecosystems (see “The Arctic,” below).

Paris Agreement Commitments

The Paris Agreement (PA) is a subsidiary agreement to the 1992 United Nations Framework Convention on Climate Change. Both the United States and Canada became Parties to the Paris Agreement when it entered into force on November 4, 2016. The U.S. withdrawal from the PA became effective November 4, 2020, after President Trump, citing a campaign promise, announced his intention to withdraw from the PA in June 2017. In 2017, Prime Minister Trudeau called President Trump’s decision “disheartening,” stating that “Canada stands united with all the other parties.” He also pledged that “Canada will continue to work with the United States at the state level, and with other U.S. stakeholders, to address climate change and promote clean growth.”¹⁵⁰ President Biden accepted the Paris Agreement upon his inauguration, making the United States again a Party as of February 19, 2021. Prime Minister Trudeau welcomed the decision.¹⁵¹

The negotiators intended the PA to be legally binding on its Parties, though not all provisions in it are mandatory. The PA requires Parties to communicate *Nationally Determined Contributions* (NDCs) identifying how each Party intends to abate its GHG emissions, with a target and current time horizon of 2030. Each government decides its own pledge. All PA emissions targets are voluntary and nonbinding, although the PA contains provisions to encourage their achievement. Parties also should set goals to adapt to climate change and should cooperate toward the PA objectives, including mobilization of financial and other support. The financial commitments and others are hortatory or collective commitments to which it would be difficult to hold an individual party accountable.

The Canadian government submitted an updated NDC to the Paris Agreement in May 2017.¹⁵² Under it, Canada committed to reduce GHG emissions by 30% below 2005 levels by 2030. Canada’s commitment is economy-wide in scope, covering 100% of Canada’s GHG inventory; it includes carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), perfluorocarbons (PFCs), hydrofluorocarbons (HFCs), and nitrogen trifluoride (NF₃) emissions from all sectors covered by the internationally accepted guidelines of the Intergovernmental Panel on Climate Change. In June 2019, the House of Commons passed a motion declaring a climate emergency and reiterating its support for achieving climate goals.¹⁵³

Canada has taken several steps to achieve these GHG-emission reductions. Since 2006, the Canadian government has established more stringent emissions standards for heavy-duty vehicles, passenger automobiles, and light trucks and instituted renewable fuels regulations that

¹⁵⁰ Justin Trudeau, Prime Minister of Canada, “Statement by the Prime Minister of Canada in Response to the United States’ Decision to Withdraw from the Paris Agreement,” June 1, 2017.

¹⁵¹ Justin Trudeau, Prime Minister of Canada, “Statement by the Prime Minister of Canada on the United States’ Decision on the Keystone XL Project, January 20, 2021.

¹⁵² Government of Canada, “Canada’s 2017 Nationally Determined Contribution Submission to the United Nations Framework Convention on Climate Change,” May 11, 2017. The Paris Agreement encouraged Parties to update their Nationally Determined Contributions in 2020. Few large countries have done so as of January 2021, with likely negotiations among them in the lead-up to the next Conference of the Parties in November 2021.

¹⁵³ House of Commons, Government Business No. 29 (National Climate Emergency), June 17, 2019.

require gasoline to contain an average of 5% renewable fuel content. It also has implemented electricity-sector regulations that ban the construction of traditional coal-fired generating units and will phase out existing coal-fired units that are unable to capture and store carbon.¹⁵⁴

Climate Strategy

The Canadian government's climate strategy has evolved since 2016. In December 2016, the government announced the Pan-Canadian Framework on Clean Growth and Climate Change (PCF), a comprehensive strategy that addresses climate change and long-term economic growth.¹⁵⁵ The PCF provides guidance on issues such as carbon pricing, climate resilience, and green technology innovation.

Under the plan, each province would design its own mechanism to price carbon emissions by 2018, either through a fee on carbon dioxide-equivalent (CO₂e) emissions,¹⁵⁶ an emissions cap-and-trade system, or a hybrid of the two approaches. The carbon price was to start at a minimum of C\$10 (about \$7.70) per metric ton in 2018 and rise to C\$50 (about \$38) per ton in 2022.¹⁵⁷ On December 11, 2020, the government announced the carbon price would rise C\$15 per year (about \$12) from 2023 to a total price of C\$170 (about \$131) in 2030 to meet its PA commitments.¹⁵⁸

Initially, all provinces and territories except Saskatchewan agreed to devise their own carbon pricing systems, although Manitoba and New Brunswick did not follow through with their own plans. In addition, the Liberal government in Ontario and the NDP government in Alberta—which had implemented carbon cap-and-trade plans—were voted out of office, and their Conservative party successors abandoned the plans.

Meanwhile, the Provinces of Ontario and Saskatchewan challenged the constitutionality of the PCF. Courts of Appeal in Ontario and Saskatchewan have upheld the PCF's constitutionality, maintaining the federal legislation was under Parliament's authority to address issues of "national concern."¹⁵⁹ However, the Court of Appeal in Alberta declared the law unconstitutional. The Supreme Court of Canada heard appeals of these cases on September 22-23, 2020, but has yet to render a judgement.¹⁶⁰

For the provinces that did not adopt their own mechanisms, the federal government is imposing a backstop carbon price under the Greenhouse Gas Pollution Pricing Act (GGPPA), which received royal assent on June 21, 2018. The GGPPA consists of two parts, a consumer fuel charge and an

¹⁵⁴ Government of Canada, *Canada's INDC Submission to the UNFCCC*, May 15, 2015 (UNFCCC = 1992 United Nations Framework Convention on Climate Change).

¹⁵⁵ Government of Canada, "The Pan-Canadian Framework on Clean Growth and Climate Change," October 24, 2017.

¹⁵⁶ Carbon dioxide-equivalent (CO₂e) is a metric that allows all GHG emissions to be stated, and summed, in their equivalence to the effect on global temperature increase, typically over a 100-year period, of a metric ton of carbon dioxide emissions. For example, whereas a ton of CO₂ would equal 1, a ton of methane would be indexed to CO₂e by multiplying it by a value of 28.

¹⁵⁷ Justin Trudeau, Prime Minister of Canada, "Prime Minister Trudeau Delivers a Speech on Pricing Carbon Pollution," October 3, 2016.

¹⁵⁸ Environment and Climate Change Canada, "A Healthy Environment and a Healthy Economy: Backgrounder," December 11, 2020.

¹⁵⁹ Jason Kroft, Victor MacDiarmid, and Larissa Lees, "Climate Change and Constitutional Challenges—Matters of National Concern Before the Supreme Court of Canada," *Stikeman Elliott*, November 26, 2020.

¹⁶⁰ Olivia Stefanovich, "Supreme Court Ends Its Hearing on Carbon Tax Without a Decision," *CBC News*, September 23, 2020.

output-based pricing system (OBPS) for industrial facilities.¹⁶¹ The fuel charge applies to 21 different types of fuel and combustible waste. The fuel charge affects not only consumer activities such as driving and home heating but also entities involved in the distribution, wholesale, or trade of those fuels. The fuel charge is applied to the provinces of Alberta, Manitoba, New Brunswick, Ontario, and Saskatchewan, as well as to the territories of Nunavut and the Yukon. The revenue generated by carbon levy largely is returned to the provinces.

The second prong of the GGPPA is the OBPS. In general, it is designed to maintain the incentives derived from carbon pricing but also to reduce the cost to firms in order to maintain competitiveness and avoid carbon leakage.¹⁶² The system applies to industries for which a standard emission intensity (i.e., emissions per unit of output) has been developed; these industries include “emission-intensive trade-exposed” industries such as steel, smelting, pulp and paper, and cement, among others. OBPS applies to industrial facilities that emit 50 kilotonnes of CO₂e, with the option for voluntary participation for smaller firms. Under the plan, industries will pay the consumer fuel charge (C\$40 in 2021) for emissions over a certain level but then may receive credits for 80% of the benchmark industry average GHG intensity. Thus, the policy is designed to maintain the price incentive for both low and high emitters to achieve greater emissions efficiency.

COVID-19 Climate Mitigation Activities

In its response to the COVID-19 emergency, Canada has incorporated climate change mitigation efforts in its economic recovery plans. In its initial response to the crisis, the Trudeau government allocated C\$750 million (about \$577 million) to create an Emission Reduction Fund. The fund provides loans and grants to eligible firms in the oil and gas sector to reduce their GHG emissions and to comply with the government’s new methane regulations.¹⁶³ In addition, the government is requiring borrowers accessing its emergency COVID-19 lending facility—the Large Employer Emergency Financing Facility—to adhere to certain affirmative covenants, including “publishing an annual climate-related financial disclosure report, highlighting how corporate governance, strategies, policies and practices will help manage climate-related risks and opportunities; and contribute to achieving Canada’s commitments under the Paris Agreement and goal of net zero by 2050.”¹⁶⁴

This requirement may be a precursor to requiring all companies to report on climate risks in their regulatory documents. In the United States, the Securities and Exchange Commission requires companies to disclose climate risk, which the Biden Administration may revise and may lead to discussions between the United States and Canada to harmonize such requirements.¹⁶⁵

¹⁶¹ Zvi Halpern-Shavim, “The Greenhouse Gas Pollution Pricing Act: A Primer,” Canadian Bar Association, June 25, 2019.

¹⁶² Chris Ragan, “Understanding the Recent Changes to the Federal Carbon Price,” Canada’s Ecofiscal Commission, August 3, 2018.

¹⁶³ Department of Finance Canada, “Backgrounder: Canada’s COVID-19 Economic Response Plan: New Support to Protect Canadian Jobs,” April 17, 2020.

¹⁶⁴ Innovation, Science, and Economic Development Canada, “Large Employer Emergency Financing Facility Factsheet,” October 6, 2020.

¹⁶⁵ For more information, see CRS Report R42544, *SEC Climate Change Disclosure Guidance: An Overview and Congressional Concerns*, by Gary Shorter.

Healthy Environment and Healthy Economy Plan

On December 11, 2020, Canada’s federal government released its Healthy Environment and Healthy Economy Plan (HEHEP) to accelerate the country’s response to climate change.¹⁶⁶ The plan’s goal is to meet and exceed Canada’s Paris Agreement commitments—now aiming for a 32%-40% reduction from 2005 levels by 2030—and to achieve net-zero carbon emissions by 2050. To achieve its goals, the government plans to spend C\$15 billion (about \$11.5 billion) on 64 discrete proposals, some of which were announced in the *Fall Economic Statement 2020*. The three major components of the plan are carbon pricing measures, infrastructure investments, and clean transportation initiatives.

- **Carbon Pricing.** The government will implement a C\$15 (about \$12)/ton yearly rise in the carbon price from the currently envisioned C\$50 (\$38)/ton in the PCF in 2022 to C\$170 (about \$131)/ton in 2030. In conjunction with the announcement of HEHEP, the government published proposed regulations to implement a clean fuel standard (CFS). The CFS would require fossil fuel producers to lower the carbon intensity of their products throughout their life-cycle, from drilling, transport, and refining to the composition of the fuel itself. The program dropped an early proposal to include gaseous fuels in the CFS.
- **Infrastructure Investment.** The government proposes to fund the construction of new green buildings, retrofit existing homes, and finance the retrofit of commercial and industrial buildings. It plans to establish a Net-Zero Accelerator Fund to scale up green technology in industry and reduce emissions from energy-intensive industries. It also proposes to allocate funds for renewable electricity and grid modernization projects.
- **Clean Transportation.** The plan seeks to promote zero-emission vehicles (ZEVs) and low-emissions transit by extending incentives for ZEV purchases, building charging and refueling infrastructure nationwide, providing a 100% tax write-off for commercial ZEVs, committing to match the most stringent emissions standards in North America by 2025, and electrifying public transportation systems.

U.S.-Canada Cooperation to Reduce Greenhouse-Gas Emissions

Although climate change cooperation at the federal level decreased under the Trump Administration, subnational cooperation among provinces, states, and localities continued. In 2017, the states and provinces of the Conference of New England Governors and Eastern Canadian Premiers adopted a Regional Climate Action Plan,¹⁶⁷ an update of the 2001 Climate Change Action Plan—the world’s first international, multi-government effort to tackle climate change. The 2001 plan largely was achieved by 2010. The new plan aims to decrease GHG emissions by 35%-45% below 1990 levels by 2030. The new regional target is meant to orient the

¹⁶⁶ Environment and Climate Change Canada, “A Healthy Environment and a Healthy Economy: Backgrounder,” December 11, 2020.

¹⁶⁷ Conference of the New England Governors and Eastern Canadian Premiers, *2017 Update of the Regional Climate Change Action Plan: Building on Solid Foundations*, August 28, 2017, at <http://www.coneg.org/Data/Sites/1/media/documents/reports/2017-rccap-final.pdf>.

provinces and states in their long-term goal to reach a 75%-85% reduction of 2001 emission levels by 2050.¹⁶⁸

California and Quebec linked their GHG cap-and-trade programs under the 2013 Western Climate Initiative, to which Ontario also belonged until it withdrew in July 2018. Nova Scotia joined the initiative in 2018, although it maintains a separate cap-and-trade program from the other jurisdictions. In October 2019, the U.S. Justice Department sued California, seeking to nullify the arrangement, claiming the agreement is an unconstitutional intrusion into the federal government's powers over foreign affairs.¹⁶⁹ A federal judge ultimately dismissed the case in July 2020.¹⁷⁰ Meanwhile, California and the Canadian federal government signed a memorandum of understanding on combating GHG emissions and air pollution through cooperation over cleaner vehicles, engines, and fuels, emissions standards, and the transition to clean transportation.¹⁷¹

President Biden and Prime Minister Trudeau have reiterated the importance of addressing climate change. They reportedly intend to work together to achieve net-zero GHG emissions, including through cross-border clean electricity transmission and advancements in the automotive sector.¹⁷²

The Arctic

As two of the eight countries with territory north of the Arctic Circle, Canada and the United States have substantial interests in the changing region.¹⁷³ Temperatures in the Arctic have warmed significantly since the 1970s, including an increase of 0.75°C over the past decade compared with the 1951-1980 mean.¹⁷⁴ The resulting decline in sea ice is gradually opening the region to increased shipping, tourism, and resource extraction, among other activities. Although these changes may provide commercial opportunities for Arctic countries and communities, they also present new challenges, ranging from environmental degradation to increased geopolitical competition.¹⁷⁵

Canada and the United States have sought to work together to address shared challenges in the Arctic region. In 2012, the countries signed a Tri-Command Framework for Arctic Cooperation intended to improve safety, security, and defense coordination among the three commands with Arctic responsibilities (CJOC, NORTHCOM, and NORAD). As part of ongoing efforts to modernize NORAD, Canada and the United States are considering options for replacing the aging North Warning System, which provides aerospace surveillance along the northern approaches to North America.

¹⁶⁸ "Climate Change Essentials: Navigating Carbon Pricing Mechanisms and Guide to Canadian Federal and Provincial Regulatory Frameworks," McCarthy Tétrault LLP, January 2018.

¹⁶⁹ "Trump DOJ Sues California, Seeks to End State's Cap-and-Trade Agreement with Quebec," *National Law Review*, October 25, 2019.

¹⁷⁰ Alex Guillén, "Trump Loses Legal Attack on California Cap-and-Trade Linkage," *Politico Pro*, July 17, 2020.

¹⁷¹ "Memorandum of Understanding Between the California Air Resources Board and Environment and Climate Change Canada," June 26, 2019, at <https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/reduce-emissions/memorandum-understanding-california.html>.

¹⁷² White House, "Readout of President Joe Biden Call with Prime Minister Justin Trudeau of Canada," January 22, 2021; and Justin Trudeau, Prime Minister of Canada, "Prime Minister Justin Trudeau Speaks with the President of the United States of America Joe Biden," January 22, 2021.

¹⁷³ The other Arctic states are Denmark (due to Greenland), Iceland, Norway, Sweden, Finland, and Russia.

¹⁷⁴ Eric Post et al., "The Polar Regions in a 2° C Warmer World," *Science Advances*, vol. 5, no. 12 (December 2019).

¹⁷⁵ For additional information, see CRS Report R41153, *Changes in the Arctic: Background and Issues for Congress*, coordinated by Ronald O'Rourke.

In addition to those defense efforts, the countries have coordinated on economic development and environmental conservation initiatives in the region. In 2016, for example, they jointly pledged to establish low-impact shipping corridors, manage Arctic fisheries sustainably, and limit offshore oil and gas leasing.¹⁷⁶ The Trump Administration sought to reopen portions of the Arctic Ocean to oil and gas development but continued to engage with Canada on issues such as joint contingency planning for transboundary oil spills.¹⁷⁷

Canada and the United States also have participated in multilateral efforts to address Arctic concerns. Both countries were founding members of the Arctic Council, which brings together the eight Arctic states, six organizations representing indigenous peoples, and various observers to promote cooperation on sustainable development and environmental protection. Under the auspices of the council, the Arctic states have negotiated three binding instruments: a 2011 Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic, a 2013 Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic, and a 2017 Agreement on Enhancing International Arctic Scientific Cooperation.¹⁷⁸ Canada and the United States also were leading participants in multilateral negotiations that resulted in a 2018 Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean.¹⁷⁹

Nevertheless, some Arctic issues remain contentious. In addition to an unresolved boundary dispute in the Beaufort Sea north of the Yukon and Alaska, Canada and the United States have a long-standing disagreement regarding the sea routes commonly known as the *Northwest Passage*. Canada argues the various channels that pass through Canada's 36,000-island Arctic archipelago are internal waters subject to Canadian control. The United States, the European Union, and others maintain the Northwest Passage is an international strait through which foreign vessels have a right to transit. The dispute has been mostly dormant since 1988, when the United States pledged that all navigation by U.S. icebreakers through the passage would be undertaken with the consent of the Canadian government and Canada agreed to facilitate such navigation.¹⁸⁰ In light of increasing Russian and Chinese activity in the Arctic, some analysts argue it would be in the United States' national security interests to recognize Canada's sovereignty claim and help it exercise control over the Arctic approaches to North America.¹⁸¹ Others are concerned, however, that doing so would create a precedent that could affect U.S. navigation through other strategic waterways, such as the Strait of Hormuz in the Persian Gulf.

More recently, Canada and the United States have been at odds over oil and gas development in the Arctic National Wildlife Refuge in Alaska. Congress established an oil and gas program in the refuge as part of the Tax Cuts and Jobs Act (P.L. 115-97), which President Trump signed into law

¹⁷⁶ White House, "U.S.-Canada Joint Statement on Climate, Energy, and Arctic Leadership," March 10, 2016; and White House, "United States-Canada Joint Arctic Leaders' Statement," December 20, 2016.

¹⁷⁷ Executive Order 13795, "Implementing an America-First Offshore Energy Strategy," 82 *Federal Register* 20815-20818, May 3, 2017; "U.S. Judge Scraps Trump Order Opening Arctic, Atlantic Areas to Oil Leasing," Reuters, March 30, 2019; and U.S. Department of State, *Report to Congress on Implementation of the Diplomatic Strategy for Continued U.S. Leadership in the Arctic*, 2020.

¹⁷⁸ All three agreements are available at <https://arctic-council.org/en/explore/work/cooperation/>.

¹⁷⁹ The agreement is available at <https://www.dfo-mpo.gc.ca/international/agreement-accord-eng.htm>.

¹⁸⁰ "Agreement Between the Government of Canada and the Government of the United States of America on Arctic Cooperation," 1988, at <https://www.treaty-accord.gc.ca/text-texte.aspx?id=101701>.

¹⁸¹ See, for example, Robert Hage, "Rights of Passage: It's Time the U.S. Recognizes Canada's Arctic Claim," Canadian Global Affairs Institute, September 2018; and Matthew Kosnik, "Canada and the U.S. Need to Make a Deal on the Northwest Passage," *National Interest*, October 28, 2020.

in December 2017. The act directs the Bureau of Land Management to conduct an initial lease sale within 4 years of enactment and a second lease sale within 10 years of enactment.¹⁸² The House passed a bill (H.R. 1146, 116th Congress) in September 2019 that would have repealed the oil and gas program; the Senate did not act on it. The Trump Administration conducted an initial lease sale of 11 tracts on some 550,000 acres on January 6, 2021.¹⁸³ President Biden is opposed to development in the refuge, and placed a temporary moratorium on all federal government activities related to the implementation of the oil and gas program following his inauguration.¹⁸⁴

The Canadian government, the territorial governments of the Yukon and Northwest Territories, and several indigenous peoples are opposed to the U.S. oil and gas program. They argue that such development in the refuge could negatively affect transboundary wildlife, such as the Porcupine caribou herd, as well as the culture and subsistence of indigenous peoples who depend on it.¹⁸⁵ Under a 1987 bilateral agreement, the United States and Canada have committed to conserve the Porcupine caribou herd and its habitat and to consult with one another regarding any activities that could have a “significant long-term adverse impact” on the herd.¹⁸⁶

Great Lakes

The Great Lakes contain 85% of North America’s fresh water. They serve as the primary source of drinking water for more than 40 million people and support a wide range of economic activities, including farming, fishing, manufacturing, and tourism.¹⁸⁷ Decades of heavy manufacturing and other human activity have altered the lakes, however, leading to degraded water quality and diminished habitat for native species.

Federal, state, provincial, local, and tribal governments in the United States and Canada have sought to work together to address those environmental challenges and restore the Great Lakes ecosystem. In 2012, the United States and Canada amended the Great Lakes Water Quality Agreement (GLWQA), a commitment originally signed in 1972 that provides a framework for identifying binational priorities and implementing actions that improve water quality. The revised agreement is intended to help the United States and Canada better anticipate and prevent ecological harm. It includes new provisions to address aquatic invasive species; habitat degradation and the effects of climate change; and continued threats to people’s health and the environment, such as harmful algae, toxic chemicals, and discharges from vessels.¹⁸⁸

¹⁸² For additional information, see CRS In Focus IF10782, *Arctic National Wildlife Refuge (ANWR) Provisions in P.L. 115-97, Tax Cuts and Jobs Act*, by Laura B. Comay.

¹⁸³ Juliet Eilperin and Steven Mufson, “Trump Auctions Drilling Rights to Arctic National Wildlife Refuge on Wednesday,” *Washington Post*, January 6, 2021.

¹⁸⁴ Executive Order 13990, “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis,” 86 *Federal Register* 7037-7043, January 25, 2021.

¹⁸⁵ Bob Weber, “Canada, First Nations Express Concern over U.S. Arctic Drilling Plans,” *Canadian Press*, January 13, 2019; and Environment and Climate Change Canada, “Minister Wilkinson Supports Indigenous and Territorial Partners in Protecting Porcupine Caribou in Arctic National Wildlife Refuge,” September 3, 2020.

¹⁸⁶ “Agreement Between the Government of Canada and the Government of the United States of America on the Conservation of the Porcupine Caribou Herd,” 1987, at <https://www.treaty-accord.gc.ca/text-texte.aspx?id=100687>.

¹⁸⁷ Matthew A. McKenna, “Great Lakes Restoration Efforts Continue to Help Grow Region’s Economy,” *Great Lakes Connection*, July 10, 2017.

¹⁸⁸ Environmental Protection Agency (EPA), “United States and Canada Sign Amended Great Lakes Water Quality Agreement/Agreement Will Protect the Health of the Largest Freshwater System in the World,” press release, September 7, 2012. The text of the amended agreement is available at https://binational.net/wp-content/uploads/2014/05/1094_Canada-USA-GLWQA-_e.pdf.

The United States and Canada both have provided funding to advance the goals of the GLWQA. In 2016, Congress authorized appropriations of \$300 million annually from FY2017 to FY2021 for the Great Lakes Restoration Initiative under Title IV of the Water Infrastructure Improvements for the Nation Act (P.L. 114-322).¹⁸⁹ Although the Trump Administration sought to eliminate the initiative in FY2018 and proposed deep cuts in FY2019 and FY2020, Congress continued to support restoration efforts. Annual appropriations amounted to \$300 million in FY2018, \$300 million in FY2019, and \$320 million in FY2020. The Consolidated Appropriations Act, 2021 (P.L. 116-260), increased funding for the Great Lakes Restoration Initiative to \$330 million, which is \$15 million more than the Trump Administration requested. In 2017, the Canadian government allocated C\$44.8 million (approximately \$34 million) over five years for its Great Lakes Protection Initiative, placing a particular focus on efforts to reduce toxic and nuisance algae and strengthen the resilience of Great Lakes coastal wetlands.¹⁹⁰ The government of Ontario, which borders four of the Great Lakes, committed an additional C\$7.5 million (approximately \$5.8 million) to protection and restoration efforts in 2020.¹⁹¹

The IJC issued the *First Triennial Assessment of Progress on Great Lakes Water Quality* in 2017. The report found the United States and Canada had made progress toward meeting many of the GLWQA's objectives, including accelerated restoration of contaminated areas of concern; the development of binational habitat conservation strategies; the absence of newly introduced aquatic invasive species, such as Asian carp; and comprehensive reporting on groundwater science. It also identified significant challenges, such as an increase in harmful algal blooms, the slow pace in addressing chemicals of mutual concern, the spread of previously introduced invasive species, and insufficient investments in infrastructure to prevent the discharge of untreated or insufficiently treated waste into the Great Lakes.¹⁹² A follow-up report, issued in December 2020, reiterated the 2017 findings and recommended the countries cooperate with the IJC to develop an improved assessment framework, collaborate to eliminate harmful algal blooms in Lake Superior, and engage in broader and more meaningful public engagement.¹⁹³

In June 2020, the U.S. Environmental Protection Agency and Environment and Climate Change Canada released a joint report on the status of the Great Lakes ecosystem that echoed many of the IJC's findings. Taking into account nine overarching indicators of ecosystem health and 45 science-based sub-indicators, the report assessed the Great Lakes to be in "fair" condition, with trends neither improving nor deteriorating. Ecosystem health differed by lake, however, with Lake Superior assessed to be in "good" condition and Lake Erie assessed to be in "poor" condition; Lake Michigan, Lake Huron, and Lake Ontario each were assessed to be in "fair" condition.¹⁹⁴

Some Members of Congress expressed concerns about a proposed deep geologic repository for nuclear waste by the Bruce nuclear power facility in Kincardine, Ontario. The proposed site, located about 1 kilometer inland from Lake Huron, would hold low- to mid-level waste materials

¹⁸⁹ For more information on the Great Lakes Restoration Initiative, see CRS In Focus IF10128, *Great Lakes Restoration Initiative (GLRI)*, by Pervaze A. Sheikh.

¹⁹⁰ Environment and Climate Change Canada, "The Government of Canada Invests in Great Lakes Protection Initiative," press release, December 1, 2017.

¹⁹¹ Ontario Ministry of the Environment, Conservation, and Parks, "Ontario Taking Action to Protect and Restore the Great Lakes," press release, September 4, 2020.

¹⁹² International Joint Commission (IJC), *First Triennial Assessment of Progress on Great Lakes Water Quality*, November 28, 2017.

¹⁹³ IJC, *Second Triennial Assessment of Progress on Great Lakes Water Quality*, December 10, 2020.

¹⁹⁴ EPA and Environment and Climate Change Canada, *State of the Great Lakes 2019: Highlights Report*, June 3, 2020.

currently being stored aboveground in warehouses. In January 2020, however, the Saugeen Ojibway Nation voted against the repository's construction, effectively scuttling the project.

Outlook

U.S.-Canada relations were somewhat strained from 2017 to 2020, as the Trump Administration called into question many long-standing pillars of the bilateral relationship. Nevertheless, the United States and Canada continued to cooperate on a wide array of issues, reflecting the countries' extensive ties and close working relationships between U.S. and Canadian institutions at all levels of government. President Biden and Prime Minister Trudeau have committed to reinvigorating bilateral cooperation to bolster economic and defense ties and to address shared challenges, such as climate change and the COVID-19 pandemic.¹⁹⁵ Some issues, such as defense spending, cross-border oil pipelines, and certain trade policies are likely to remain contentious, however, and efforts to forge closer ties may have to overcome lingering Canadian doubts regarding the long-term reliability of the United States.

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¹⁹⁵ White House, "Readout of President Joe Biden Call with Prime Minister Justin Trudeau of Canada," January 22, 2021; and Justin Trudeau, Prime Minister of Canada, "Prime Minister Justin Trudeau Speaks with the President of the United States of America Joe Biden," January 22, 2021.