Canada: Background and U.S. Relations

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SUMMARY

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Canada: Background and U.S. Relations

The United States and Canada are close partners, bound together by a 5,525-mile border as well as by shared history and values. The countries maintain long-standing mutual security commitments under NATO and the North American Aerospace Defense Command (NORAD). The United States and Canada also have one of the largest bilateral commercial relationships in the world, with more than $2.0 billion of goods and services crossing the border each day in 2021. Other areas of U.S.-Canada cooperation include cross-border law enforcement and the management of transboundary natural resources. Given the high degree of integration between Canada and the United States, Members of Congress often track bilateral relations and assess how Canadian policies may affect the United States.

Canada's Domestic and Foreign Policy

Justin Trudeau has served as Canada's prime minister since 2015. His Liberal Party currently holds a plurality in the House of Commons and is able to advance its policy agenda with the support of the left-of-center New Democratic Party. Over the past eight years, the Liberals have prioritized policies intended to address climate change and to strengthen and expand Canada's social safety net. While continuing to advance those initiatives, the Trudeau government is now seeking to address Canadians' cost-of-living concerns in the context of relatively high inflation and a slowing economy that is projected to grow by 1.4% in 2023 after expanding by 3.4% in 2022. As of June 2023, 36% of Canadians expressed satisfaction with Prime Minister Trudeau's government and 59% expressed dissatisfaction. Canada's next federal election is due by October 2025.

The Trudeau government has adhered to Canada's traditional approach to foreign policy, emphasizing multilateral diplomacy and contributions to collective security alliances. Among other actions, Canada under Prime Minister Trudeau has played an active role in international climate change negotiations and has bolstered its support for NATO operations, deploying additional military personnel to Central and Eastern Europe following Russia's February 2022 invasion of Ukraine. Canada also has joined with the United States and other like-minded countries to push back against actions by China that undermine international norms and standards. Although the Liberal Party government has increased defense expenditures since 2014, it has shown reluctance to take on some international security missions, likely due in part to a lack of personnel, equipment, and resources.

U.S.-Canada Relations

President Biden and Prime Minister Trudeau have sought to revitalize and expand the U.S.-Canada partnership. During the Trump Administration, the United States had challenged long-standing pillars of the bilateral relationship, including common commitments to NATO and free trade in North America. This, along with the countries adopting divergent approaches to a range of issues, had strained relations during those years. Since 2021, the United States and Canada have taken steps to modernize NORAD, strengthen cross-border law enforcement, and accelerate the deployment of renewable energy and low-carbon technologies. Nevertheless, the countries continue to disagree on several trade policy matters—including softwood lumber, dairy, government procurement, and digital services—and certain cross-border energy infrastructure projects.

Congressional Action

U.S.-Canada relations have remained of interest to the 118th Congress. Committees have held hearings to examine challenges at the U.S.-Canada border and NORAD's capabilities and resource requirements. Members also have introduced legislative measures related to bilateral defense relations (e.g., S. 990), energy (e.g., H.R. 1058; S. 23; S. 989; and H.Con.Res. 14), and natural resources (e.g., H.Res. 243 and S.Res. 117), among other subjects, and have engaged in oversight of issues such as the implementation of the 2020 United States.-Mexico-Canada Agreement and bilateral negotiations over the Columbia River Treaty. Congress is now considering the Biden Administration's FY2024 budget proposal, which requests funding for several binational commissions that help manage transboundary environmental and natural resources issues as well as for various U.S. initiatives related to shared U.S. and Canadian priorities.

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Introduction

Shared history, geography, and values underpin the relationship between the United States and Canada. The countries share mutual security commitments under NATO; maintain a close intelligence partnership as members of the "Five Eyes" group of nations; cooperate on continental defense through the binational North American Aerospace Defense Command (NORAD); and coordinate frequently on law enforcement efforts, with a particular focus on securing their shared 5,525-mile border.[1] Bilateral trade and investment ties are extensive, bolstered by more than three decades of free trade under the 1989 U.S.-Canada Free Trade Agreement, the 1994 North American Free Trade Agreement (NAFTA), and the 2020 United States-Mexico-Canada Agreement (USMCA).[2] The United States and Canada also work together to manage transboundary environmental and natural resources issues, including through numerous initiatives at the state/provincial and local levels.

Due to the many similarities and high degree of integration between Canada and the United States, legislators in both countries often study policies proposed or implemented across the border. The U.S. Congress and Canadian Parliament have engaged directly for more than 60 years through the Canada-United States Inter-Parliamentary Group (see textbox below). Over the past three years, some Members of Congress have expressed particular interest in U.S. and Canadian efforts to modernize NORAD, secure the shared border, implement USMCA, accelerate the deployment of low-carbon technologies, protect and restore the Great Lakes, and update the Columbia River Treaty.[3] The 118th Congress may continue to examine Canada's approach to such issues as it considers appropriations and other legislation related to shared priorities and engages in oversight of U.S. policy.

Canada-United States Inter-Parliamentary Group

Since 1959 (P.L. 86-42, H. Rept 86-215), 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 U.S. Section of the IPG includes bipartisan representatives of the U.S. House and Senate, and the Canadian Section includes 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. The most recent meeting, which included the Canadian Section and Members of the U.S. Senate, was held in Washington, DC, in May 2023. The Canadian Section previously met with Members of the U.S. House of Representatives in Washington, DC, in September 2022.

Canada's Political and Economic Environment

Canada is a constitutional monarchy and a parliamentary democracy. Although an independent country, Canada maintains historical and political ties to the British Commonwealth. King Charles III is the head of state; a governor general, appointed on the advice of Canada's prime minister, represents the king in Canadian affairs and carries out certain constitutional, ceremonial, and representational duties. Canada's bicameral Westminster-style Parliament includes an elected,

[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-United States-Mexico Agreement (CUSMA) in Canada.

[3] *Low-carbon technologies* typically refer to processes, products, or services that reduce the greenhouse gas emissions associated with an activity or product. University of Ottawa, Smart Prosperity Institute, *Growing Clean: Investment Flows in Low-Carbon Technology to 2030*, June 2019, p. 2.

338-seat House of Commons and an appointed, 105-seat Senate.[4] Canadians elect Members of Parliament 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.

Justin Trudeau has served as Canada's prime minister since 2015. Trudeau's center-left Liberal Party won a majority in the House of Commons in the 2015 federal election and a plurality in the 2019 election. Although elections were not due until 2023, Governor General Mary Simon, at Trudeau's request, dissolved Parliament in August 2021, triggering a snap election in September 2021. Trudeau asserted the elections were necessary for Canadians to determine the direction of the country at a pivotal moment in Canada's recovery from the Coronavirus Disease 2019 (COVID-19) pandemic. The Liberal Party once again won a plurality in the House of Commons, with 160 seats (see **Figure 1**). Since the Liberal Party fell 10 seats short of regaining the parliamentary majority it lost in 2019, Trudeau had to secure the support of opposition parties to advance his policy agenda. In March 2022, the left-leaning New Democratic Party (NDP), which holds 25 seats in the House of Commons, agreed to support the Liberal Party government on key votes until June 2025 in exchange for the Liberals advancing certain NDP policy priorities, such as a new dental care program for low- and middle-income Canadians and a universal prescription drug program.[5]

Addressing climate change has been one of the Liberal Party government's top priorities. In 2016, Trudeau negotiated with Canada's provinces and territories to adopt the Pan-Canadian Framework on Clean Growth and Climate Change, which imposed a price on carbon emissions. The Canadian Net-Zero Emissions Accountability Act, enacted in 2021, enshrined Canada's commitments under the Paris Agreement to reduce greenhouse gas emissions by 40%-45% below 2005 levels by 2030 and to reduce net greenhouse gas emissions to zero by 2050.[6] The act also established an independent Net-Zero Advisory Body to inform policy decisions and required the government to produce interim emissions reduction targets, plans, and progress reports. Major components of Canada's plan include raising the price of carbon from C$65 (about $48)/ton in 2023 to C$170 ($126)/ton in 2030 and increasing regulatory and financial incentives for investments in clean energy, low-carbon manufacturing, and carbon capture and storage technologies.[7] The Liberal Party government's 2023 budget proposes about C$83 billion ($61 billion) of tax credits and expenditures over 10 years to advance Canada's climate goals and to compete with the United States in attracting such investments following the enactment of P.L. 117-169, often referred to as the Inflation Reduction Act of 2022.[8] (See "Inflation Reduction Act and Critical Minerals" for additional discussion.)

[4] In 2016, Canadian Prime Minister Justin Trudeau established the Independent Advisory Board for Senate Appointments to provide merit-based, but nonbinding, recommendations on nominations to the upper house. The governor general officially appoints senators on the advice of the prime minister.

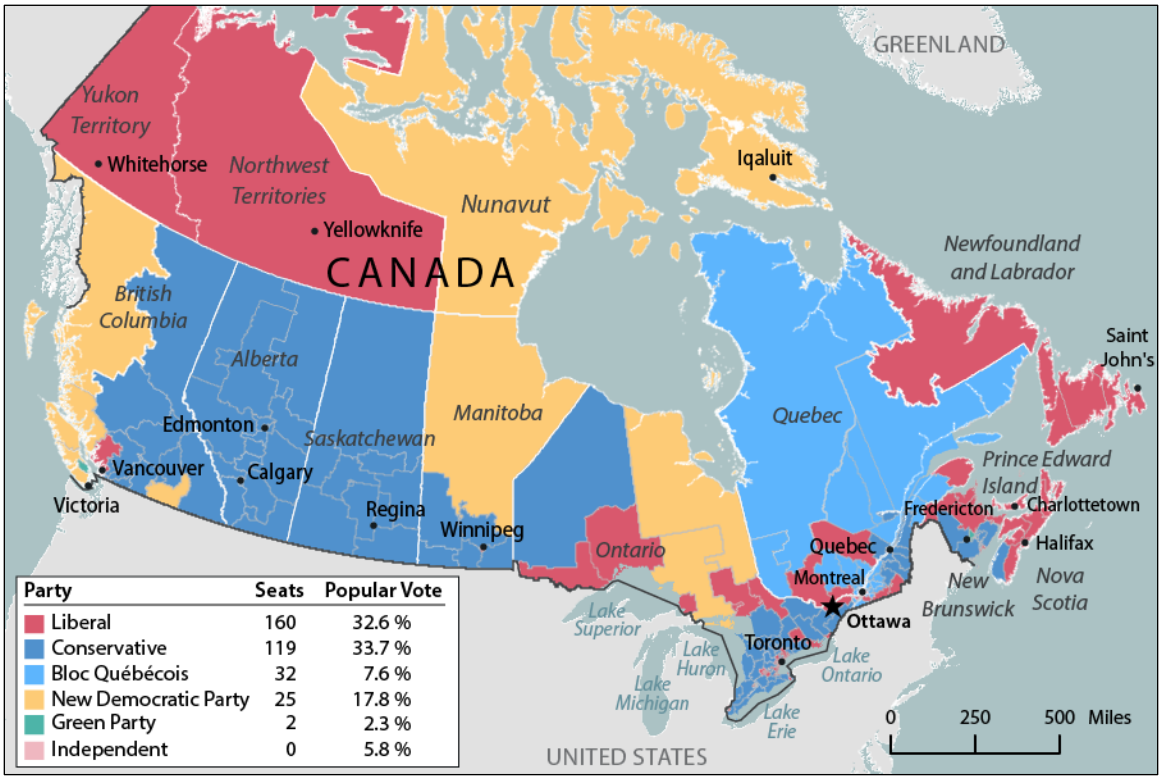
[5] Prime Minister of Canada, *Delivering for Canadians Now, A Supply and Confidence Agreement*, March 22, 2022.

[6] *Net-zero emissions* refers to a situation where any continued human-caused greenhouse gas emissions are balanced by carbon removed from the atmosphere and stored in products or geological, terrestrial, or ocean reservoirs.

[7] Government of Canada, Environment and Climate Change Canada, *2030 Emissions Reduction Plan*, March 2022. Currency conversions throughout this report are based on the average exchange rate from January 2023 to May 2023 of C$1.35/U.S.$1. Data from the Board of Governors of the Federal Reserve, "Foreign Exchange Rates," June 5, 2023.

[8] Government of Canada, Department of Finance Canada, *Budget 2023: A Made-In-Canada Plan*, March 2023.

Figure 1. Map of Canada's 2021 Federal Election Results



Source: Congressional Research Service. Data from Elections Canada, "Official Voting Results: Forty-Fourth General Election," 2021.

Such efforts to reconcile Canada's Paris Agreement commitments with its role as a major oil and gas producer have drawn criticism from the energy sector and environmentalists. Some in the oil and gas industry, which accounts for 7.2% of Canada's gross domestic product (GDP) and 28.2% of Canada's greenhouse gas emissions, maintain that Canada's targets are unrealistic.[9] Meanwhile, some environmentalists contend that Canada needs to reduce its emissions and transition away from fossil fuels more quickly than the government's current plan envisions.[10]

The Liberal Party government also has sought to strengthen and expand Canada's social welfare system. During their first four years in power, the Liberals increased cash transfers to help families with the cost of raising children and expanded parental leave and pension benefits. Following the onset of the COVID-19 pandemic, the Canadian government created a series of temporary relief programs that provided C$210.7 billion (about $156 billion, or 10% of Canada's 2021 GDP) in direct financial support to individuals and businesses between March 2020 and May 2022.[11] Those government transfers, on average, exceeded Canadians' market income losses. More recently, the Liberal Party government launched an NDP-backed dental care program and negotiated with Canada's provinces to implement a subsidized national childcare program.

[9] Nia Williams, "Canadian Oil Industry at Odds with Trudeau over New 2030 Climate Plans," Reuters, March 31, 2022; Government of Canada, Natural Resources Canada, *Energy Fact Book 2022-2023*, 2022, p. 98; and Government of Canada, Environment and Climate Change Canada, *National Inventory Report 1990-2021*, 2023, p. 65.

[10] See, for example, Climate Action Tracker, "Canada," December 20, 2022.

[11] Office of the Auditor General of Canada, *COVID-19 Pandemic Report 10: Specific COVID-19 Benefits*, December 2022, p. 5.

In a June 2023 poll, 36% of Canadian respondents approved of Prime Minister Trudeau's performance in office and 59% disapproved.[12] Many Canadians surveyed in June indicated concern about the rising cost of living, which Pierre Poilievre, leader of the center-right Conservative Party, has sought to tie to the Liberal Party's environmental and fiscal policies.[13] Consumer prices rose by 6.8% in 2022, contributing to a 3.1% drop in Canadians' inflation-adjusted wages (see **Table 1**). Rising interest rates, which the Bank of Canada increased from 1.5% in June 2022 to 4.75% in June 2023, are weighing on consumer demand and business investment.[14] The Bank of Canada projects Canada's real GDP growth will slow from 3.4% in 2022 to 1.4% in 2023.[15]

Table 1. Canada and United States: Selected Comparative Economic Statistics, 2022

Indicator	Canada	United States
GDP (Nominal PPP, trillions U.S.$)	2.3	25.5
GDP Per Capita (Nominal PPP, U.S.$)	59,071.3	75,269.0
Real GDP Growth (% change)	3.4	2.1
Sectoral Components of GDP (% of GDP)		
Agriculture	2.2	1.0
Industry	26.7	17.6
Services	71.1	81.4
Exports of Goods & Services (% GDP)	33.8	11.7
Imports of Goods & Services (% GDP)	33.7	15.5
Unemployment Rate (% of labor force)	5.3	3.6
Inflation (% change in consumer prices)	6.8	8.0
Average Real Wages (% change)	-3.1	-1.9
Budget Balance (% of GDP)	-0.8	-5.5
Public Debt (% of GDP)	100.9	99.3

Sources: Economist Intelligence Unit, "Data Tool," July 2023, using data derived from Statistics Canada; U.S. Department of Commerce, Bureau of Economic Analysis; U.S. Department of Labor, Bureau of Labor Statistics; and the Organisation for Economic Co-operation and Development.

Notes: GDP = gross domestic product; PPP = purchasing power parity.

Trudeau has stated that he intends to continue leading the Liberal Party into the next election, which is due by October 2025. A July 9, 2023 electoral projection based on polls, election history, and demographic data suggests the next election is likely to be close. The Conservative Party is projected to win 35% of the vote and 139 seats, compared with 31% of the vote and 139 seats for the Liberal Party. The separatist Bloc Québécois is projected to win 7% of the national popular vote and 32 seats in Quebec, whereas the NDP is projected to win 19% of the vote and 25 seats

[12] The remainder did not respond or did not have an opinion. Angus Reid Institute, "Federal Politics: Trudeau's Approval Rating Slides Among NDP, Liberal Voters," June 19, 2023.

[13] Angus Reid Institute, "Federal Politics: As Inflation Fight Inflicts Pain on the Nation, One-third of 2021 Liberals Look Elsewhere for Relief," June 8, 2023.

[14] Bank of Canada, "Bank of Canada Raises Policy Rate 25 Basis Points, Continues Quantitative Tightening," press release, June 7, 2023.

[15] Bank of Canada, *Monetary Policy Report,* April 2023, p. 9.

nationwide. Canadians' remaining votes are projected to go to the Green Party (4%, 3 seats) and the right-wing People's Party of Canada (3%, 0 seats).[16]

Canada's Foreign and Defense Policies

Canadian governments historically have argued that the multilateral institutions, agreements, and standards that Canada helped establish with the United States and other allies in the aftermath of World War II (sometimes referred to as the *rules-based international order*) are essential to Canada's physical security and economic prosperity. According to Deputy Prime Minister 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." [17] Since World War II, Canadian governments have sought to increase their influence over the shape of the international order through multilateral diplomacy and contributions to collective security alliances.

Prime Minister Trudeau's government came to office pledging to reinvigorate Canada's role in the world and drafted a new defense policy, asserting that defending Canada and Canadian interests "not only demands robust domestic defense but also requires active engagement abroad."[18] Since then, Canada has taken on a more prominent role in international climate negotiations and has led a coalition of World Trade Organization (WTO) members, known as the Ottawa Group, seeking to strengthen and modernize the multilateral trading system. Canada also has bolstered its support for NATO operations, commanding NATO Mission Iraq from October 2018 until November 2020 and deploying additional Canadian Armed Forces personnel to Central and Eastern Europe since Russia's February 2022 invasion of Ukraine (see "NATO Commitments and Support for Ukraine," below). At the same time, Trudeau has not followed up on his pledge to increase Canada's support for U.N. peacekeeping missions and has resisted U.S. entreaties for Canada to lead a multinational security force in Haiti, with Canadian defense officials citing a lack of personnel and resources.[19] The perceived reluctance of the Canadian government to take on greater international security responsibilities is seen as raising tensions with allies and other security partners.

NATO Commitments and Support for Ukraine

Canada, like the United States, was a founding member of NATO in 1949 and has been an advocate for NATO enlargement. Since 2017, Canada has commanded a multinational NATO battlegroup deployed to Latvia as part of the alliance's Enhanced Forward Presence, which aims to reassure allies in Eastern Europe particularly vulnerable to Russian aggression. At a June 2022 NATO summit, Canada agreed to work with Latvia and other NATO allies to transform the battlegroup into a "combat capable brigade" to bolster deterrence and defense following Russia's

[16] 338Canada, "338Canada Federal Projection," July 9, 2023.

[17] Government of Canada, Global Affairs Canada, "Address by Minister Freeland on Canada's Foreign Policy Priorities," June 6, 2017.

[18] Government of Canada, Department of National Defence and Canadian Armed Forces, *Strong, Secure, Engaged: Canada's Defence Policy*, June 2017.

[19] Steve Scherer, "Canada's Top General Concerned Military Lacks Capacity to Lead Haiti Mission," Reuters, March 9, 2023.

February 2022 invasion of Ukraine.[20] That process, to be completed by 2026, includes more than doubling the size of the force (currently about 1,800 personnel, including about 800 Canadian Armed Forces personnel), expanding necessary military infrastructure, and procuring and deploying additional equipment and systems.[21] In July 2023, Prime Minister Trudeau announced a three-year, $2.6 billion renewal and expansion of Canada's Operation REASSURANCE, which includes the deployment to Latvia as well as contributions to NATO air and maritime activities in Europe on a rotating basis. Up to 2,200 Canadian Armed Forces personnel are to be persistently deployed in support of the expanded mission.[22]

In addition to enhancing its NATO contributions, Canada has scaled up its support for Ukraine. Under Operation UNIFIER, which Canada launched in 2015 after Russia seized Crimea, the Canadian Armed Forces have trained more than 37,000 Ukrainian military personnel in battlefield tactics and advanced military skills.[23] Although the Canadian Armed Forces initially paused training operations in Ukraine after Russia's 2022 invasion, they are now training Ukrainians in the United Kingdom (UK), Poland, and Latvia. Since February 2022, Canada has committed more than C$1 billion ($741 million) in military assistance to Ukraine, as well as C$4.85 billion ($3.6 billion) in economic loans, C$352.5 million ($261 million) in humanitarian assistance, and C$229 million ($170 million) in development and stabilization assistance.[24] Canada also has approved emergency temporary resident visas for more than 784,000 Ukrainians, some 165,000 of whom have arrived in Canada to join the approximately 1.4 million-strong Ukrainian-Canadian community.[25] At the same time, Canada has imposed visa and financial sanctions on nearly 1,800 Russian individuals and entities and has restricted transactions with Russia's financial and energy sectors, among other measures.[26]

In 2022, Canada's estimated defense expenditures were equivalent to 1.3% of GDP. That figure is an increase from 1.0% of GDP in 2014—the year before the Liberal Party government took office—but is below NATO's recommended level of at least 2% of GDP.[27] Canada's Office of the Parliamentary Budget Officer forecasts that Canada's defense expenditures will reach 1.5% of GDP in the 2024-2025 fiscal year; Canada would need to devote an additional C$14.5 billion (about $10.7 billion, 32% more than projected) to defense to reach the NATO target.[28]

[20] Government of Canada, Department of National Defence, "Canada and Latvia Sign Joint Declaration to Augment NATO's Enhanced Forward Presence Latvia," press release, June 29, 2022.

[21] NATO, "NATO's Forward Presence," fact sheet, November 2022; Government of Canada, Department of National Defence, "Canadian Armed Forces to Train Ukrainian Junior Officers in Latvia," May 10, 2023; and Sarah Ritchie, "Trudeau Vows to Double Size of Canada's Contribution to NATO Mission in Latvia," Canadian Press, July 11, 2023.

[22] Prime Minister of Canada, "Prime Minister Increases Support for Key NATO Presence," July 10, 2023.

[23] Government of Canada, Department of National Defence, "Operation UNIFIER," June 30, 2023.

[24] Government of Canada, Department of National Defence, "Canadian Donations and Military Support to Ukraine," June 27, 2023; and Government of Canada, Global Affairs Canada, "Economic, Humanitarian, Development Assistance and Peace and Stabilization Support—Russia's Invasion of Ukraine," May 31, 2023.

[25] Government of Canada, Immigration, Refugees and Citizenship Canada (IRCC), "Ukraine Immigration Measures: Key Figures," July 4, 2023; and Max Stick and Feng Hou, "A Sociodemographic Profile of Ukrainian-Canadians," Statistics Canada, April 28, 2022.

[26] Government of Canada, Global Affairs Canada, "Sanctions—Russian Invasion of Ukraine," June 10, 2023.

[27] NATO, "Defence Expenditure of NATO Countries (2014-2022)," March 21, 2023.

[28] Government of Canada, Office of the Parliamentary Budget Officer, *Canada's Military Expenditure and the NATO 2% Spending Target*, June 9, 2022.

Relations with the People's Republic of China

The Liberal Party government came to office stating intentions to strengthen ties with the People's Republic of China (PRC, or China), in part to reduce Canada's economic dependence on the United States, which was the destination of approximately 75% of Canadian exports between 2013 and 2022.[29] Canada-PRC ties have deteriorated significantly since December 2018, however, when Canada arrested Meng Wanzhou, an executive at the Chinese technology company Huawei, to comply with an extradition request from the United States. In apparent retaliation for Meng's arrest, the PRC detained two Canadians, Michael Kovrig and Michael Spavor, holding them for nearly three years. In September 2021, the PRC released the "two Michaels," as they are widely known, hours after Meng reached a deferred prosecution agreement with U.S. prosecutors that allowed her to return to China.

Canadian criticism of the PRC's human rights record has further escalated tensions. In May 2020, Canada joined with the United States, the UK, and Australia to express "deep concern" about China's decision to impose a new national security law on Hong Kong.[30] Since then, Canada has suspended its extradition treaty with Hong Kong, placed restrictions on sensitive exports to Hong Kong, and created new pathways to permanent residence in Canada to facilitate the immigration of Hong Kong residents. Canadian officials also have expressed concerns about the PRC's treatment of Uyghurs and other Turkic Muslims in northwest China's Xinjiang region, which the House of Commons unanimously recognized as "genocide" in February 2021.[31] The PRC responded by accusing the House of Commons of having "deliberately smeared China" and "grossly interfered in China's internal affairs."[32]

The PRC's activities inside Canada also have contributed to the deterioration in bilateral ties. Such activities allegedly have included industrial espionage, intimidation of human rights activists and other dissidents within diaspora communities, and interference in Canadian politics.[33] Since early 2023, Canadian opposition parties have been calling for a public inquiry into alleged PRC efforts to influence Canada's 2019 and 2021 federal elections and the Liberal Party government's response. Prime Minister Trudeau initially resisted a public inquiry but appointed an independent special rapporteur to investigate alleged foreign influence in Canada.[34] That special rapporteur resigned in June 2023 in the face of opposition criticism that he was not truly independent due to his ties to Trudeau. As of early July 2023, the Liberal Party government reportedly was in negotiations with opposition parties regarding a potential framework and mandate for a public inquiry.[35]

In November 2022, Canada released an Indo-Pacific Strategy describing the PRC as an "increasingly disruptive global power" that disregards international rules and norms and is seeking to shape the international order "into a more permissive environment for interests and

[29] Government of Canada, Statistics Canada data, as presented by Trade Data Monitor, April 24, 2023.

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

[31] House of Commons of Canada, Vote No. 56, 43rd Parliament, 2nd Session, February 22, 2021.

[32] Ministry of Foreign Affairs of the People's Republic of China, "Foreign Ministry Spokesperson Want Wenbin's Regular Press Conference on February 23, 2021," February 24, 2021.

[33] See, for example, Royal Canadian Mounted Police, "Hydro-Québec Employee Charged with Espionage," November 14, 2022; and Robert Fife and Steven Chase, "China's Push to Influence Diaspora in Canada Has 'Intensified,' Trudeau Says," *Globe and Mail*, November 14, 2020.

[34] For the initial findings, see David Johnston, Independent Special Rapporteur on Foreign Interference, *First Report*, May 23, 2023.

[35] Peter Zimonjic, "Liberals, Opposition House Leaders Meet to Discuss Foreign Interference Inquiry," CBC News, July 7, 2023.

values that increasingly depart from [those of Canada]."[36] The strategy calls for Canada to increase its diplomatic, economic, and military engagement in the Indo-Pacific region and to push back against PRC behaviors that undermine international norms, such as arbitrary detentions, economic coercion, and actions that threaten the status quo in the Taiwan Strait.

As part of those efforts, Canada is seeking to participate in the Indo-Pacific Economic Framework for Prosperity (IPEF)—the Biden Administration's primary economic initiative in the region—and reportedly is seeking to join the Australia, UK, United States (AUKUS) security pact for the Indo-Pacific.[37] The James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (P.L. 117-263) expressed the sense of Congress that the Secretary of Defense should collaborate with Canada and other NATO allies to build connectivity and advance a shared vision for the Indo-Pacific.[38] In March 2023, Canada and the United States launched an Indo-Pacific Dialogue to coordinate the implementation of their respective Indo-Pacific strategies.

Canada's Indo-Pacific Strategy also states that Canada will take steps domestically to defend against foreign interference. Among other actions, Canada has prohibited Canadian telecommunications providers from using Huawei or ZTE products or services in their fifth generation (5G) networks, restricted investment by state-owned enterprises in Canada's critical minerals sector, and launched public consultations regarding a potential Foreign Influence Transparency Registry. In May 2023, Canada expelled a Chinese diplomat who reportedly had been involved in an effort to intimidate a member of the Canadian Parliament and the member's relatives in Hong Kong.[39]

Arctic Policy

With more than 40% of its land mass located in the Arctic, Canada has substantial interests in the changing region.[40] Temperatures in the Arctic have warmed nearly four times faster than the global average since 1979.[41] 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.[42]

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[36] Government of Canada, Global Affairs Canada, *Canada's Indo-Pacific Strategy*, 2022, p. 10.

[37] U.S. Department of State, "Secretary Antony J. Blinken and Canadian Foreign Minister Mélanie Joly at a Joint Press Availability," October 27, 2022; and Robert Fife and Steven Chase, "Canada Seeks Entry into AUKUS Alliance to Help Keep China in Check," *Globe and Mail*, May 8, 2023. For more information on IPEF and AUKUS, see CRS In Focus IF12373, *Indo-Pacific Economic Framework for Prosperity (IPEF)*, by Cathleen D. Cimino-Isaacs, Kyla H. Kitamura, and Mark E. Manyin; CRS In Focus IF12113, *AUKUS and Indo-Pacific Security*, by Derek E. Mix and Bruce Vaughn; and CRS Report R47599, *AUKUS Pillar 2: Background and Issues for Congress*, by Patrick Parrish and Luke A. Nicastro.

[38] P.L. 117-263, §1265.

[39] Government of Canada, Global Affairs Canada, "Canada Declares Zhao Wei Persona Non Grata," May 8, 2023; and Statement by Hon. Michael Chong, House of Commons of Canada, Standing Committee on Procedure and House Affairs, *Question of Privilege Related to the Intimidation Campaign Against the Member for Wellington – Halton Hills and Other Members*, Meeting 74, 44th Parl., 1st sess., May 16, 2023.

[40] House of Commons of Canada, Standing Committee on National Defence, *A Secure and Sovereign Arctic*, 44th Parl., 1st sess., April 2023, p. 7. (Hereinafter, Standing Committee on National Defence, April 2023).

[41] Mika Rantanen et al., "The Arctic Has Warmed Nearly Four Times Faster Than the Globe Since 1979," *Communications Earth & Environment*, vol. 3 (August 11, 2022).

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

Canada traditionally has viewed the Arctic as a region of international cooperation. It was one of the 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.[43] 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.[44] Russia's war against Ukraine has affected the Arctic Council's functioning, however, and raised questions about its future. Canada joined the United States in temporarily pausing participation in the Arctic Council in March 2022 and resumed work on projects not involving Russia in June 2022. Canada has participated in some multilateral negotiations on Arctic matters outside the council, including talks that resulted in a 2018 Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean.[45]

At the same time, Canada has sought to defend its sovereignty in the Arctic. In 2019, Canada filed a submission with the U.N. Commission on Limits of the Continental Shelf, claiming exclusive rights over natural resources and jurisdiction over activities such as marine scientific research in 1.2 million square kilometers of seabed and subsoil in the Arctic Ocean, including the North Pole.[46] The submission, based on the scientific and legal provisions of the U.N. Convention on the Law of the Sea, overlaps in some areas with the submissions of other Arctic Ocean coastal states, including Russia and Denmark; Canada has pledged to resolve such overlaps in a peaceful manner in accordance with international law.

Canada's government also continues to argue that the various channels that pass through the country's 36,000-island Arctic Archipelago, commonly referred to as the *Northwest Passage*, 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 U.S.-Canada dispute over the passage 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.[47]

Exercising effective control over the Canadian Arctic has become more difficult as access to, and interest in, the region has increased. In November 2022, the auditor general of Canada reported that "the federal organizations that are responsible for safety and security in the Arctic region do not have full awareness of maritime activities in Arctic waters and are not ready to respond to increased surveillance requirements."[48] This is reportedly due to incomplete surveillance, insufficient data and information sharing, and outdated equipment. To bolster its presence in the Arctic, the Canadian government has begun upgrading infrastructure and procuring new equipment, including ice breakers, offshore patrol vessels, and fighter and patrol aircraft. Canada is also working with the United States to enhance Arctic defenses as part the ongoing

[43] The other Arctic states are the United States, Denmark (due to Greenland), Iceland, Norway, Sweden, Finland, and Russia.

[44] All three agreements are available at https://arctic-council.org/en/explore/work/cooperation/.

[45] The 2018 Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean, which entered into force in June 2021, is available at https://www.dfo-mpo.gc.ca/international/agreement-accord-eng.htm.

[46] Government of Canada, Global Affairs Canada, "Canada Marks Major Milestone in Defining Its Continental Shelf in Arctic Ocean," press release, May 23, 2019.

[47] Agreement Between the Government of Canada and the Government of the United States of America on Arctic Cooperation, January 11, 1988, at https://www.treaty-accord.gc.ca/text-texte.aspx?id=101701.

[48] Office of the Auditor General of Canada, *Arctic Waters Surveillance*, November 15, 2022, p. 7.

modernization of NORAD (see "NORAD"). Nevertheless, the House of Commons Standing Committee on National Defence continues to express concerns about potential capability gaps and has called for the Canadian government to accelerate Arctic-related defense expenditures.[49]

U.S.-Canada Relations

In February 2021, President Biden and Prime Minister Trudeau announced the Roadmap for a Renewed U.S.-Canada Partnership, which pledged to revitalize and expand bilateral relations.[50] U.S.-Canada ties had been strained in the preceding four years as the countries adopted divergent approaches to a range of issues and the Trump Administration challenged many long-standing pillars of the bilateral relationship, including common commitments to NATO and free trade in North America.[51] Since the launch of the roadmap, the United States and Canada have taken steps to modernize NORAD, strengthen cross-border law enforcement, and accelerate the deployment of low-carbon technologies, among other ongoing areas of cooperation (see "Security Cooperation" and "Climate Change Collaboration"). During a March 2023 speech to the Canadian Parliament, President Biden asserted that "no two nations on Earth are bound by such close ties" and assured Canadians they would "always be able to count on the United States of America."[52]

Nevertheless, several policy disagreements persist (see "Commercial Relations" and "Cross-Border Energy Infrastructure Disputes"), and some Canadians continue to question the long-term dependability of the United States. Although 57% of Canadians surveyed by the Pew Research Center in spring 2023 expressed favorable views of the United States (up from 35% in 2020), 62% asserted that the United States does not take into account the interests of countries like Canada in making international policy decisions, and 38% perceived the United States as less politically stable than other wealthy countries.[53] Some Canadian national security analysts also have expressed concerns about political polarization in the United States, which, in their view, has made the United States less predictable and has had spillover effects in Canada. For example, such analysts have characterized the cross-border financial, media, and political support some conservative sectors of the United States provided to protests against the Liberal Party government and its pandemic policies in early 2022 as a "threat to Canadian democracy."[54]

Security Cooperation

According to the U.S. State Department, "U.S. defense arrangements with Canada are more extensive than with any other country."[55] In addition to their mutual defense commitments under NATO and close intelligence partnership as members of the Five Eyes alliance, the United States

[49] Standing Committee on National Defence, April 2023, pp. 63-69.

[50] White House, "Roadmap for a Renewed U.S.-Canada Partnership," February 23, 2021.

[51] Arthur Beesly, Alex Barker, and Demetri Sevastopulo, "Donald Trump Fails to Endorse NATO's Mutual Defence Pledge," *Financial Times*, May 25, 2017; Heather Long, "Trump Threatens to Leave Canada Behind on NAFTA, Warns Congress Not to 'Interfere,'" *Washington Post*, September 1, 2018; and Richard Wike, Janell Fetterolf, and Mara Mordecai, *U.S. Image Plummets Internationally as Most Say Country Has Handled Coronavirus Badly*, Pew Research Center, September 15, 2020.

[52] White House, "Remarks by President Biden in Address to the Canadian Parliament," March 24, 2023.

[53] Richard Wike et.al., *International Views of Biden and U.S. Largely Positive*, Pew Research Center, June 27, 2023.

[54] Madelaine Drohan, ed., *A National Security Strategy for the 2020s*: *Report of the Task Force on National Security*, University of Ottawa, Graduate School of Public and International Affairs, May 2022, p. 5. Also see Andy Blatchhford, "How Canada Became America's New Culture War," *Politico Pro*, February 27, 2022.

[55] U.S. Department of State, Bureau of Western Hemisphere Affairs, "U.S. Relations with Canada," August 19, 2022.

and Canada cooperate on continental defense through NORAD and coordinate extensively on law enforcement matters (see "NORAD" and "Border Issues").

The U.S. and Canadian defense industries are also highly integrated. Congress has designated Canadian individuals and organizations as part of the National Technology and Industrial Base (10 U.S.C. §4801) and has designated Canadian firms as "domestic sources" for the purposes of the Defense Production Act of 1950 (50 U.S.C. §§4501 et seq.).[56] Likewise, Congress granted special treatment to Canada under the Arms Export Control Act of 1976 (22 U.S.C. §§2751 et seq.), reflected in the International Traffic in Arms Regulations, which provide licensing requirement exemptions for some—but not all—U.S. defense exports to Canada and temporary U.S. defense imports from Canada (22 C.F.R. §126.5).

NORAD

NORAD, established in 1958, is charged with monitoring all aerial and maritime threats to the United States and Canada and defending North American airspace. NORAD is unique in the world as a binational command that has a U.S. Commander and a Canadian Deputy Commander who 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 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 and Canadian Joint Operations Command.

In August 2021, the United States and Canada issued a joint statement on NORAD modernization. The statement recognized the challenges posed by "growing strategic competition, rapid advancements in technology, and ongoing changes in climate" and asserted that NORAD must be able to detect and identify threats earlier and respond to them faster and more decisively.[57] The countries identified several priority areas for new investments, including situational awareness, especially in the northern and maritime regions of North America; modernized command and control systems; improved capabilities to deter and defeat evolving aerospace threats; and research and development.

Continental defense issues have received increased focus from U.S. policymakers since a high-altitude balloon passed over North America in early 2023. U.S. officials say NORAD detected the balloon near Alaska's Aleutian Islands on January 28, tracked it over U.S. and Canadian airspace, and ultimately assessed that the PRC was using the balloon to surveil strategic sites.[58] On February 4, the United States, in coordination with the Canadian government, shot down the balloon off the coast of South Carolina. According to General Glen VanHerck, the Commander of NORAD and U.S. Northern Command, at least four other balloons passed over North America undetected in prior years, indicating a potential "domain awareness gap."[59] In the aftermath of the

[56] For more information on the National Technology and Industrial Base and the Defense Production Act, see CRS In Focus IF11311, *Defense Primer: The National Technology and Industrial Base*, by Heidi M. Peters and Luke A. Nicastro; and CRS Report R43767, *The Defense Production Act of 1950: History, Authorities, and Considerations for Congress*, by Heidi M. Peters.

[57] U.S. Department of Defense (DOD), "Joint Statement on NORAD Modernization," August 17, 2021.

[58] Jim Garamone, "F-22 Safely Shoots Down Chinese Spy Balloon off South Carolina Coast," *DOD News*, February 4, 2023.

[59] DOD, "Gen. Glen VanHerck, Commander, North American Aerospace Command and United States Northern Command, Holds an Off-Camera, On-the-Record Briefing on the High-Altitude Surveillance Balloon Recovery Efforts," February 6, 2023.

PRC balloon incident, NORAD adjusted its radar to more closely scrutinize North American airspace at high altitudes. NORAD subsequently detected and destroyed three smaller objects that, according to President Biden, "were most likely balloons tied to private companies, recreation, or research institutions studying weather or conducting other scientific research" rather than surveillance vehicles.[60]

Canada plans to invest C$4.9 billion (about $3.6 billion) over six years and C$38.6 billion (about $28.6 billion) over 20 years to modernize NORAD's capabilities.[61] Among other expenditures, Canada has committed to procuring two next-generation over-the-horizon radar systems to enhance early warning and domain awareness of the Arctic approaches to North America. Canada also has committed to upgrading infrastructure at bases across the country, including four forward operating locations in the north, to support the arrival of Canada's new fleet of 88 F-35 Joint Strike Fighters and meet other Canadian, U.S., and NORAD military requirements.[62]

Historically, NORAD has been funded through a 60% to 40% split between the United States and Canada.[63] It is not possible to compare the countries' current contributions, however, since the U.S. Department of Defense (DOD) budget does not designate a specific funding level for NORAD operations or modernization. Although the DOD budget includes funding for military systems that may support NORAD once fielded, DOD does not procure those systems solely for NORAD. For example, the Department of Defense Appropriations Act, 2023 (P.L. 117-328, Division C), reportedly included funding for over-the-horizon radar that General VanHerck has identified as vital for NORAD operations.[64] Other major NORAD priorities include the expansion of undersea surveillance systems and the development of space-based sensors capable of detecting hypersonic weapons.[65]

The 118th Congress has held several hearings to examine NORAD's response to the PRC balloon incident in early 2023 and assess NORAD's capabilities and funding requirements.[66] Ongoing oversight efforts may inform authorization and appropriations decisions for FY2024 as well as other legislation. For example, a bill introduced in the Senate in March 2023 (S. 990) would require the NORAD Commander to conduct a gap analysis of NORAD's capabilities, including any limitations that foreign countries may exploit to enter U.S. or Canadian airspace unnoticed,

[60] White House, "Remarks by President Biden on the United States' Response to Recent Aerial Objects," February 16, 2023.

[61] The C$38.6 billion commitment is on an "accrual basis," which records the cost of acquiring an asset when it is put into service and spread over its useful life rather than the year the payments are made. Government of Canada, Department of National Defence, "NORAD Modernization Project Timelines," fact sheet, March 24, 2023.

[62] Canada has participated in the U.S.-led F-35 Joint Strike Fighter program since 1997 but did not conclude its advanced fighter procurement process until January 2023. The 88 F-35s are to be delivered to Canada between 2026 and 2032. Government of Canada, Department of National Defence; "Announcement Regarding the F-35 Acquisition," January 9, 2023.

[63] CRS communication with NORAD, May 17, 2023.

[64] General Glen D. VanHerck, Commander, United States Northern Command and North American Aerospace Defense Command, "Statement Before the Senate Armed Services Committee, Subcommittee on Strategic Forces," May 9, 2023, p. 10.

[65] General Glen D. VanHerck, Commander, United States Northern Command and North American Aerospace Defense Command, "Statement Before the Senate Armed Services Committee," March 24, 2022, p. 13.

[66] See, for examples, U.S. Congress, Senate Committee on Appropriations, *The People's Republic of China's High Altitude Surveillance Efforts against the United States*, 118th Cong., 1st sess., February 9, 2023; House Committee on Armed Services, *Security Challenges in North and South America*, 118th Cong., 1st sess., March 8, 2023; and Senate Committee on Armed Services, Subcommittee on Strategic Forces, *To Receive Testimony on the Department of Defense Missile Defense Activities in Review of the Defense Authorization Request for Fiscal Year 2024 and the Future Years Defense Program*, 118th Cong., 1st sess., May 9, 2023.

and report the results to the Senate and House Armed Services Committees within 90 days of enactment.

Border Issues

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 have provided the framework for 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.[67] The declaration and action plan have resulted in several initiatives, including

- implementation of a 2009 Framework Agreement on Integrated Cross-Border Maritime Law Enforcement Operations (Shiprider program) that allows Royal Canadian Mounted Police (RCMP) and U.S. Coast Guard personnel to jointly crew marine vessels to enforce the law on both sides of the border;
- 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.[68]

Canadian concerns about privacy and sovereignty delayed implementation of some of these initiatives.[69] 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.

The COVID-19 pandemic led the U.S. and Canadian governments to close their shared border to all nonessential travel in March 2020.[70] Although both governments generally sought to maintain bilateral trade flows, the border closure took an economic and social toll on both countries, particularly in border communities.[71] Canada ultimately allowed vaccinated U.S. citizens to begin nonessential travel to Canada again in August 2021, and the United States reopened the land border to vaccinated Canadians for nonessential travel in November 2021.[72] Canadians could fly

[67] The Beyond the Border declaration and action plan are available at https://www.dhs.gov/sites/default/files/publications/us-canada-btb-action-plan.pdf.

[68] U.S. Department of Homeland Security (DHS), "Beyond the Border Fact Sheet," January 2017.

[69] 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.

[70] DHS, "Joint Statement on U.S.-Canada Joint Initiative: Temporary Restriction of Travelers Crossing the US-Canada Land Border for Non-Essential Purposes," March 20, 2020.

[71] Western Washington University, Border Policy Research Institute, *Border Barometer*, April 9, 2021.

[72] Canadian Border Services Agency, "Travel Advisory: Reminder—On August 9th, Fully Vaccinated United States Citizens and Permanent Residents Will Be Able to Enter Canada," August 6, 2021; and DHS, "Starting Today Fully Vaccinated Travelers Permitted to Enter U.S. via Land and Ferry Border Crossings," November 8, 2021.

into the United States throughout the pandemic. Canada and the United States ended their vaccination requirements for foreign travelers in October 2022 and May 2023, respectively.

As the border has reopened, the United States and Canada have taken several steps to bolster cooperation on cross-border law enforcement issues. For example, memoranda of understanding signed by the U.S. Drug Enforcement Administration and the RCMP in November 2022 and by the Bureau of Alcohol, Tobacco, Firearms and Explosives and the Canada Border Services Agency in March 2023 reportedly allow for increased information sharing in support of cross-border investigations into opioid and gun trafficking.[73] U.S. and Canadian officials also have engaged with one another and sought to enhance collaboration on shared security challenges through the high-level Cross-Border Crime Forum, a Cross-Border Firearms Task Force, and the Trilateral Fentanyl Commission (in which Mexico also participates).

Some Members of Congress have raised concerns about an increase in unauthorized migrant crossings and other security challenges along the U.S.-Canada border.[74] During the first eight months of FY2023 (October 2022-May 2023), the U.S. Border Patrol encountered 5,629 individuals who crossed into the United States from Canada between official ports of entry, up from 2,238 in all of FY2022 and 4,408 in all of FY2019—before the pandemic-related border closure.[75] In comparison, the RCMP intercepted 39,540 asylum seekers who crossed into Canada from the United States between ports of entry in 2022.[76]

During President Biden's March 2023 trip to Ottawa, the United States and Canada announced an expansion of a 2004 Safe Third-Country Agreement, which allows either country to return to the other asylum seekers who cross the U.S.-Canada land border. Prior to the expansion, the agreement did not apply between ports of entry. The Safe Third Country Agreement has faced legal challenges in Canada. In 2020, the Federal Court of Canada ruled that the agreement, as implemented, violates Section 7 of Canada's Charter of Rights and Freedoms, which protects an individual's right to life, liberty, and security of the person, due to risks of *refoulment* and other harm from immigration detention faced by those returned to the United States.[77] Following appeals, the Supreme Court of Canada ruled in June 2023 that implementation of the agreement does not violate Section 7 of the charter since Canada has appropriate safeguards in place. However, the Supreme Court of Canada sent the case back to the Federal Court to examine whether Canada's implementing legislation violates Section 15 of the charter, guaranteeing equality under the law, by adversely affecting women fearing gender-based persecution.[78]

[73] DHS, "The 2023 Canada-U.S. Cross-Border Crime Forum," April 28, 2023; and Dylan Robertson, "Canada, U.S. to Share More Data in Fight Against Cross-Border Gun Smuggling, Opioids," Canadian Press, April 28, 2023.

[74] U.S. Congress, House Committee on Homeland Security, Subcommittee on Oversight, Investigations, and Accountability, *Biden's Growing Border Crisis: Death, Drugs, and Disorder on the Northern Border*, 118th Cong., 1st sess., March 28, 2023.

[75] U.S. Customs and Border Protection (CBP), "Nationwide Encounters," June 14, 2023; and CBP, "U.S. Border Patrol Monthly Encounters (FY 2000- FY2020)," at https://www.cbp.gov/newsroom/media-resources/stats.

[76] IRCC, "Asylum Claims by Year—2022," April 18, 2023.

[77] *Refoulement* is the forcible return of refugees or asylum seekers to a country where they would be subjected to persecution. Canadian Council for Refugees v. Canada (Immigration, Refugees, and Citizenship), FC 770 (2020).

[78] Canadian Council for Refugees v. Canada (Citizenship and Immigration), SCC 17 (2023), at https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/19957/index.do.

Commercial Relations[79]

The United States and Canada have one of the largest bilateral commercial relationships in the world, including a highly integrated energy and automotive market. As noted previously, the countries have maintained free trade for more than three decades under the U.S.-Canada Free Trade Agreement, NAFTA, and USMCA.

- In 2022, Canada was the third-largest supplier of U.S. goods imports ($437.7 billion), accounting for 13.5% of total U.S. goods imports. The United States is Canada's top goods export destination, receiving 77% of Canadian goods exports in 2022.[80]
- Canada was the largest purchaser of U.S. goods in 2022, receiving 17% of U.S. goods exports in that year. The United States is the top goods exporter to Canada, providing almost half of Canada's imports ($278.9 billion in 2022).
- Canada was the United States' fourth-largest services export destination and services importer in 2022. Leading services exports to Canada in 2022 included business services, travel, and financial services. Leading services imports from Canada in 2022 included business services, transport, and travel.[81]
- As of 2021, the United States is the largest source of foreign direct investment (FDI) in Canada ($406.4 billion); Canada is the third-largest FDI source by stock in the United States ($527.9 billion).

Trade levels in both goods and services dropped substantially in 2020 due to travel restrictions and the overall economic fallout associated with the COVID-19 pandemic. As of 2022, trade levels had recovered and surpassed 2019 levels in value. One notable exception is the travel sector, which was particularly impacted by pandemic-related border closures. Although the travel sector rebounded in 2022, it has yet to reach pre-2019 levels, as measured in value.

U.S. and Canadian officials continue to express differing views on long-standing disputes related to Canada's dairy and softwood lumber industries and U.S. government procurement practices. Other areas of discussion include automotive issues and Canadian legislation regarding digital services providers.

Canadian Dairy Tariff-Rate Quotas

USMCA did not end the supply management system Canada uses to support its dairy, poultry, and egg sectors; however, under USMCA, Canada committed to provide greater access to these markets for U.S. exports through limited increases in tariff-rate quotas (TRQs) that allow specified quantities to be imported into Canada at preferential duty rates.[82]

The Office of the U.S. Trade Representative (USTR) is currently disputing Canada's TRQ system for dairy imports under USMCA's Chapter 31 state-state dispute settlement mechanism. USTR sought its first consultation regarding Canada's dairy TRQs in December 2020. In January 2022, a USMCA dispute settlement panel found Canada's practice of reserving TRQ pools exclusively for the use of domestic processors and further processors to be inconsistent with Canada's

[79] Written by Kyla H. Kitamura, CRS Analyst in International Trade and Finance.

[80] Goods data from the U.S. Census Bureau and Statistics Canada, as presented by *Trade Data Monitor*, accessed April 2023.

[81] Services and investment data from the U.S. Bureau of Economic Analysis.

[82] For more information on United States-Mexico-Canada Agreement (USMCA) dairy provisions, see CRS In Focus IF11149, *Dairy Provisions in USMCA*, by Joel L. Greene.

USMCA commitments. The panel did not make a ruling regarding other issues raised by the United States. The United States praised the decision, whereas Canada stated that the panel report "expressly recognizes the legitimacy of Canada's supply management system" and "confirms that Canada has the discretion to manage its TRQ allocation policies" under USMCA in a manner that supports Canada's supply management system.[83]

In January 2023, USTR requested a second USMCA panel after initiating additional consultations with Canada in May and December 2022. USTR contends that Canadian revisions to the dairy TRQ system in response to the January 2022 USMCA panel ruling remain inconsistent with its USMCA obligations. In particular, USTR alleges that Canada's revisions impose new requirements that effectively exclude certain types of importers, such as retailers and food service operators, from using TRQ allocations.[84] U.S. dairy producers and some Members of Congress praised USTR's action.[85] Canada's government stated that it will "stand firm against attempts to renegotiate agreements during the dispute settlement panel process."[86] According to a timetable issued by the USMCA secretariat, the USMCA panel anticipates holding a hearing in July 2023 and issuing a final report in October 2023.

In June 2022, a member of the Canadian Parliament introduced a bill that would prevent trade negotiators from making TRQ concessions related to dairy, eggs, or poultry (Bill C-282). Supporters of the bill have criticized the Canadian government for providing supply management concessions in recent trade agreements. Critics of the bill argue that the Canadian dairy sector has benefited from trade deals and that an inability to make concessions would constrain the Canadian negotiating position.

Softwood Lumber

Trade in softwood lumber—primarily used in residential construction, remodeling, and repair—historically has been one of the most controversial and enduring disputes in the U.S.-Canada trade relationship.[87] Until October 2015, the 2006 Softwood Lumber Agreement governed U.S.-Canada softwood lumber trade. Since the agreement's expiration, the United States has imposed antidumping (AD) and countervailing duties (CVD) on U.S. imports of Canadian softwood lumber. Canada has filed legal challenges against these duties under NAFTA, USMCA, and the WTO; these challenges remain ongoing. Currently, there are no formal negotiations regarding a new softwood lumber agreement. Although U.S. and Canadian officials have expressed interest in reaching a new agreement, each side asserts that the other is unwilling to negotiate.[88]

The dispute over softwood lumber revolves around different pricing policies and forest management structures in the two countries. In Canada, about 94% of forests are *crown lands*,

[83] Government of Canada, Global Affairs Canada, "Minister Ng and Minister Bibeau Welcome Canada-United States-Mexico Agreement Dispute Settlement Panel Report on Dairy Tariff Rate Quotas," press release, January 4, 2022.

[84] Office of the U.S. Trade Representative (USTR), "United States Establishes Second USMCA Dispute Panel on Canadian Dairy Tariff-Rate Quota Policies," press release, January 31, 2023.

[85] USTR, "What They Are Saying: USTR Defends the Rights of Dairy Exporters Under the USMCA," press release, January 31, 2023.

[86] Government of Canada, Global Affairs Canada, "Statement by Minister Ng on U.S. Request for Dispute Settlement Panel on Tariff Rate Quotas for Canadian Dairy Products Under Canada-United States-Mexico Agreement," press release, January 31, 2023.

[87] For additional background on the history of U.S.-Canada softwood lumber disputes, see CRS Report R42789, *Softwood Lumber Imports from Canada: Current Issues*.

[88] Reuters, "U.S. Open to New Lumber Talks with Canada, USTR Tai Says," June 22, 2022; and House of Commons of Canada, Standing Committee on International Trade, *U.S. Countervailing and Antidumping Duties on Canadian Exports of Certain Softwood Lumber Products*, hearing, 44th Parl., 1st sess., May 11, 2023.

owned and administered by the federal and provincial governments; in the United States, about 58% of forests are privately held, with prices set by the market.[89] The Canadian provinces typically allocate timber to producers under tenure agreements, generally long-term (5-25 years), and charge a stumpage fee—a per-unit-of-volume fee charged for the right to harvest the trees. U.S. producers maintain that the stumpage fee 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.[90]

Under the 2006 Softwood Lumber Agreement, which expired in October 2015, the United States allowed unlimited imports of Canadian timber when market prices remained above a specified level; when prices fell below that level, Canada imposed export taxes and/or quotas. Under the agreement, the United States returned about $4 billion that was collected from the duties to the importers of record. The remaining deposits were split evenly between the U.S. lumber industry and jointly agreed-upon initiatives. The parties agreed to terminate or dismiss all active international and domestic court claims. The agreement also precluded new cases, investigations and petitions, and actions to circumvent the commitments in the agreement and established a third-party arbitration system to handle any disputes under the agreement.

Following a one-year cooling-off period after the agreement's expiration, in November 2016, a coalition of U.S. lumber producers petitioned the U.S. Department of Commerce's International Trade Administration (ITA) and the U.S. International Trade Commission (ITC) to initiate AD/CVD proceedings against Canadian softwood lumber imports.[91] For AD/CVD cases, ITA must first determine whether the petition has merit and whether further investigation is warranted—ITC made a positive determination in this case in December 2016. ITC then determines whether there is a reasonable indication of injury—ITC made a positive determination in this case in January 2017. ITA began collecting estimated duties in 2017, with AD/CVD rates varying depending on the firm. ITA issued final determinations in November 2017, but, after some Canadian softwood lumber producers disputed the calculations, ITA revised the final AD/CVD rates for 2017—the dumping margin (AD) was assessed at 3.20%-7.28% and the subsidy rate (CVD) was assessed at 3.34%-17.99%.

ITA undertakes an annual administrative review of the AD/CVD orders, during which it adjusts the duty rates. To date, ITA has completed three administrative reviews for 2018-2020. In January 2023, ITA released the preliminary results of its fourth administrative review, which covered 2021. ITA assessed the dumping margin for AD duties at 5.25%-6.90% and the CVD subsidy rate at 1.72%-2.48%. ITA is expected to issue final results for its fourth administrative review in summer 2023. In March 2023, ITA initiated its fifth administrative review, which will cover 2022.

The Canadian government maintains that U.S. duties on Canadian softwood lumber are "unjustified" and "act as a tax on American consumers, increasing building costs at a time of surging inflation."[92] USTR has repeatedly stated that Canada must create a level playing field for U.S. producers. U.S. lumber producers have celebrated the "continued enforcement of U.S. trade

[89] Government of Canada, Natural Resources Canada, "Forest Land Ownership," June 29, 2020; and U.S. Department of Agriculture, Forest Service, "Table 2–Forest and Woodlands Area in the United States by Ownership, Region, Subregion, and State, 2017," *Forest Resources of the United States, 2017*, GTR WO-97, March 2019.

[90] U.S. Department of Commerce, *Softwood Lumber Subsidies Report to the Congress*, June 2020.

[91] For more information on the antidumping/countervailing duties process, see CRS In Focus IF10018, *Trade Remedies: Antidumping and Countervailing Duties*, by Christopher A. Casey.

[92] Government of Canada, Global Affairs Canada, "Statement by Minister Ng on U.S. Preliminary Duty Rates on Canadian Softwood Lumber," press release, January 24, 2023.

laws" to maximize long-term U.S. production and create a level playing field.[93] U.S. homebuilders—major consumers of softwood lumber—have criticized the tariffs, arguing that they contribute to price volatility and increased housing costs.[94]

Active Canadian Challenges Regarding Softwood Lumber

World Trade Organization (WTO). Canada challenged the U.S. antidumping (AD) and countervailing duties (CVD) measures against Canadian softwood lumber imports at the WTO. In the AD case, a WTO panel ruled in 2019 that the U.S. use of the *zeroing* method to calculate AD margins is consistent with WTO rules but that the overall U.S. methodology of calculating AD duties was not consistent with WTO rules.[95] Canada appealed the findings on zeroing. In the CVD case, a WTO panel ruled in 2020 that the United States is improperly rejecting the use of benchmark prices in setting stumpage fees in Canada. The United States appealed this ruling. Neither appeal has been heard because the WTO Appellate Body is, in effect, not functioning due to a lack of quorum.

North American Free Trade Agreement (**NAFTA**). Canada challenged the United States' initial AD and CVD orders under NAFTA's Chapter 19; both cases are ongoing. A hearing on the AD case was held in June 2023, and a hearing on the CVD case is expected in September 2023. Canadian officials noted that they expect rulings by 2024.

United States-Mexico-Canada Agreement (**USMCA**). Canada has filed challenges under USMCA's Chapter 10 against each of the completed U.S. AD/CVD administrative reviews. All of the USMCA softwood lumber disputes are ongoing. Canadian officials commented that the USMCA panels have not been finalized, in part because of Canadian concerns about impartiality due to potential panelists' involvement in previous softwood lumber dispute cases.

Sources: WTO; House of Commons of Canada, Standing Committee on International Trade.

Note: *Zeroing* refers to the adjustment of certain negative values to zero when calculating dumping margins. For more details, see CRS Report R46296, *Trade Remedies: Antidumping*, by Christopher A. Casey.

Government Procurement and Federally Funded Infrastructure

The Canadian government has expressed concerns about the Biden Administration's efforts to expand domestic sourcing requirements for U.S. government procurement (such as the Buy American Act of 1993, 41 U.S.C. §§8301 et seq.) and federally funded infrastructure projects (commonly referred to as *Buy America* requirements).[96] Canadian officials have urged the Biden Administration to provide an exemption for Canada, pointing to tightly integrated U.S.-Canada supply chains, with Canadian finished products containing U.S. components and vice versa.

In January 2021, President Biden issued an executive order initiating a review of domestic sourcing laws, such as the Buy American Act, and establishing the Made in America Office in the Office of Management and Budget (OMB). The Made in America Office manages the Buy American and Buy America waiver process, among other responsibilities. Provisions in the 2021 Build America, Buy America Act (BABA; Division G, Title IX of the Infrastructure Investment and Jobs Act, P.L. 117-58) affirmed and codified many of the commitments from President Biden's executive order. BABA also expanded Buy America domestic sourcing requirements for

[93] U.S. Lumber Coalition, "U.S. Lumber Coalition Supports U.S. Department of Commerce's Continued Trade Law Enforcement Against Unfairly Traded and Harmful Canadian Lumber Imports," press release, January 24, 2023.

[94] National Association of Home Builders (NAHB), "Statement from NAHB Chairman Jerry Konter on Administration's Refusal to Act on Lumber Tariffs," press release, June 22, 2022.

[95] *Zeroing* refers to the adjustment of certain negative values to zero when calculating dumping margins. For more details, see CRS Report R46296, *Trade Remedies: Antidumping*, by Christopher A. Casey.

[96] See, for example, Government of Canada, Global Affairs Canada, "Minister Ng Meets United States Trade Representative Katherine Tai," May 2, 2023. *Buy America* refers to several statutes and regulations that apply to federal financial assistance for infrastructure-related projects. For more details, see CRS Report R47243, *U.S. Government Procurement and International Trade*, by Andres B. Schwarzenberg, and CRS In Focus IF11989, *Congress Expands Buy America Requirements in the Infrastructure Investment and Jobs Act (P.L. 117-58)*, by Christopher D. Watson.

federally funded infrastructure, including the materials and types of projects covered. The Canadian government has argued that even with a waiver process, these requirements disadvantage Canadian goods and services, noting that Buy America requirements apply even if a federal agency funds a small part of an infrastructure project undertaken by a state or municipality.[97] U.S. officials have argued that the requirements apply only to a small portion of U.S.-Canada trade volumes and will not have a large negative impact on Canadian companies.[98]

In February 2023, OMB issued proposed guidance that would tighten and standardize Buy America implementation and solicited public feedback.[99] Canada submitted comments recommending that OMB guidance reflect the "unique nature" of the U.S.-Canada trading relationship. In March 2023, President Biden and Prime Minister Trudeau agreed to "continue discussions to carve-in Canadian goods into Buy America requirements."[100]

USMCA Automotive Rules of Origin

NAFTA was instrumental in shaping a highly integrated North American automotive industry. USMCA created stricter rules for duty-free automotive trade in North America (referred to as *rules of origin*).[101] These rules were an area of contention during negotiations, and disagreements remain regarding their implementation.

Mexico and Canada have challenged the U.S. interpretation of North American content requirements related to the automotive rules of origin under USMCA's Chapter 31 state-state dispute settlement mechanism. The United States has argued for a stricter approach to calculating North American content, particularly related to core parts (e.g., engines, transmissions). Mexico and Canada have argued for a more flexible interpretation that would help North American producers meet the USMCA content requirements.[102]

A USMCA panel decided in favor of Mexico and Canada's position on this dispute, and the final report was made public on January 11, 2023. Canadian officials and Mexican business groups praised the decision, whereas USTR expressed disappointment, claiming the panel's interpretation could negatively impact the North American auto industry and U.S. jobs.[103] USTR noted that it is considering next steps and planning to engage Mexico and Canada on a possible resolution, including the "implications of the Panel's findings for investment in the region."[104] Some U.S. business groups welcomed the panel ruling and called for quick implementation.[105]

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[97] Government of Canada, Trade Commissioner Service, "The Buy American Act and Buy America Requirements," March 2, 2021.

[98] See, for example, David L. Cohen, U.S. Ambassador to Canada, "Remarks at the Wilson Center Canada Institute," May 3, 2023, at https://ca.usembassy.gov/remarks-by-ambassador-david-l-cohen-at-the-wilson-center-canada-institute/.

[99] Office of Management and Budget, "Guidance for Grants and Agreements," 88 *Federal Register* 8374, February 9, 2023.

[100] Prime Minister of Canada Justin Trudeau, "Working with the United States to Grow Our Clean Economies and Create Good, Middle-Class Jobs on Both Sides of Our Border," press release, March 24, 2023.

[101] For more details, see CRS In Focus IF12082, *USMCA: Motor Vehicle Rules of Origin*, by Liana Wong and M. Angeles Villarreal.

[102] Steven Chase, "USMCA Auto-Dispute Ruling Favours Canada, Mexico; Panel's Decision Upholds Regional Content Rules Negotiated in Pact That Succeeded NAFTA," *Globe and Mail*, January 11, 2023.

[103] Government of Canada, Global Affairs Canada, "Statement by Minister Ng on Canada-United States-Mexico Agreement Dispute on Rules of Origin for Automotive Goods," January 11, 2023; and Alejandro Alegría, "Fallo sobre Reglas de Origen Favorece Institucionalidad del T-MEC: IP," *La Jornada*, January 11, 2023.

[104] Adam Hodge (@USTRSpox). 2023. Twitter, January, 11, 2023, 4:00pm.

[105] U.S. Chamber of Commerce, "Chamber Comments on USMCA Dispute Settlement Ruling on Auto Trade," press release, January 11, 2023.

Some U.S. stakeholders, such as labor groups, expressed concerns that the ruling undermines efforts to boost the U.S. auto industry and undercuts workers' confidence in trade agreements.[106]

The three countries have stated that they are continuing to work toward a resolution. Under USMCA rules, Canada and Mexico could have begun suspending certain benefits to the United States on January 28, 2023, 45 days after the parties received the final report, but they have not done so to date.

Digital Services

Some Members of Congress and business groups have raised concerns about proposed and recently passed Canadian legislation affecting trade in digital services, arguing that these laws disadvantage and/or target U.S. companies and could violate USMCA rules.[107]

Digital Services Tax

Canada is considering a proposed digital services tax (DST) of 3% on certain revenue of large digital services providers that would be retroactive to January 1, 2022. Canada has stated that it would not impose its DST before January 1, 2024, and would impose it only if the digital services portion of the international tax reform plan agreed to by the Organization for Economic Cooperation and Development (OECD)/G20 Inclusive Framework has not come into force.[108]

USTR has stated that if Canada were to adopt the DST, USTR would "examine all options," including under existing trade agreements and domestic statutes.[109] Prior to the OECD/G20 agreement in October 2021, USTR initiated investigations into various countries' DSTs under Title III of the Trade Act of 1974 (Sections 301-310, codified at 19 U.S.C. §§2411-2420), commonly referred to as *Section 301*. USTR found DSTs in several countries to be discriminatory and announced it would impose retaliatory tariffs; these tariffs were suspended prior to implementation and later terminated after the OECD/G20 agreement was reached. USTR noted it would monitor implementation of countries' removal of their DSTs, as agreed to under the OECD/G20 framework. In February 2022, USTR submitted comments to Canada referencing the Section 301 investigations and noting it would assess the Canadian DST proposal against the "same standard."[110]

Online Streaming Act and Online News Act

Canada's Online Streaming Act (Bill C-11), which became law in April 2023, amends the country's Broadcasting Act to give the Canadian Radio-Television and Telecommunications Commission (CRTC) the power to regulate entities that broadcast through social media or online streaming services. This will allow the CRTC to enforce rules that could require companies to fund and/or promote Canadian content on streaming and social media platforms. The CRTC already regulates Canadian content requirements for Canadian radio and television.

[106] United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW), "UAW Statement on the Car-Content Rule Announced by the USTR," press release, January 12, 2023.

[107] See, for example, Letter from Senator Ron Wyden, Chairman, Committee on Finance, and Senator Michael Crapo, Ranking Member, Committee on Finance, to Katherine Tai, United States Trade Representative, January 26, 2023.

[108] Government of Canada, Department of Finance Canada, "Digital Services Tax Act," February 14, 2022.

[109] USTR, "USTR Opposes Canada's Digital Services Tax Act Proposal," press release, February 22, 2022.

[110] Ibid.

Supporters of the legislation argue it is a necessary update to the Broadcasting Act to reflect the growing importance of streaming platforms. Some U.S. companies have expressed concerns about increased costs and negative impacts on U.S. content creators, and some Canadian companies have expressed concern that they could be held to a higher standard than foreign broadcasters. The CRTC is currently seeking public consultations regarding various aspects of the Online Streaming Act before finalizing and implementing regulations. The CRTC has stated that it plans to implement the new regulations in "late 2024."[111]

Another measure, the Online News Act (Bill C-18), will allow Canadian news outlets to collectively bargain with digital platforms (e.g., Google, Meta) regarding the use of their news content. The act, which became law in June 2023, will also establish a mandatory arbitration framework in the event that digital platforms and news outlets cannot reach an agreement. The Canadian government has argued that the bill will ensure fair sharing of revenue (e.g., digital advertising revenue) between news outlets and digital platforms.[112] Some U.S. digital platforms have pushed back against claims that they are benefitting unfairly from sharing news content. Some U.S. companies have indicated they will respond to the act by ending the availability of news content through their platforms in Canada.[113] The Online News Act will not go into effect until the Canadian government finalizes implementing regulations. Some U.S. companies have indicated that they plan to participate in the regulatory process.[114] Canadian officials have criticized the U.S. companies' plans to end Canadian users' access to news while also indicating interest in having further discussions with companies to find a path forward.[115]

Canadian officials claim that both the Online Streaming Act and the Online News Act are consistent with Canada's international trade obligations.[116]

Energy, Environmental, and Natural Resources Issues

The United States and Canada maintain extensive energy ties (see "Bilateral Energy Trade") and have concluded a wide array of agreements at the federal, state/provincial, and local levels to manage transboundary environmental and natural resources issues (see "Great Lakes Cooperation" and "Columbia River Treaty Review"). The countries also have established specialized organizations to support these efforts (see "Binational Commissions"). President Biden and Prime Minister Trudeau have prioritized bilateral cooperation on climate change; however, some policy disagreements have arisen as the United States and Canada have sought to reconcile environmental objectives, energy needs, and economic interests (see "Climate Change Collaboration" and "Cross-Border Energy Infrastructure Disputes").

The United States and Canada are currently working together to respond to wildfires in Canada. As of early July 2023, the fires had burned nearly 9.4 million hectares (36,000 square miles) of land—the largest area burned in any year since at least 1983—and negatively affected air quality

[111] Canadian Radio-Television and Telecommunications Commission, "Regulatory Plan to Modernize Canada's Broadcasting System," May 30, 2023.

[112] Government of Canada, Canadian Heritage, "The Online News Act," April 5, 2022.

[113] Jessica Mundie, "Canadians Will No Longer Have Access to News Content on Facebook and Instagram, Meta Says," CBC News, June 22, 2023.

[114] Kent Walker, "An Update on Canada's Bill C-18 and Our Search and News Products," *Google Canada Blog*, June 29, 2023.

[115] See, for example, Pablo Rodriguez, Minister of Canadian Heritage, interview, *Power Play with Vassy Kapelos*, CTV News, June 29, 2023.

[116] Anja Karadeglija, "Online News, Streaming Bills in Line with Trade Obligations, Ng Says After U.S. Criticism," *National Post*, December 22, 2022.

across Canada and the United States.[117] As of June 2023, more than 1,500 U.S. firefighters, incident managers, and support staff had been deployed to assist Canadian authorities.[118] U.S. agencies also are providing technological support to help Canada identify emerging wildfires in remote wilderness areas.[119] A June 2023 memorandum of understanding between Natural Resources Canada and the U.S. Departments of Agriculture and the Interior is intended to expand cooperation on wildfire prevention, research, innovation, technical cooperation, and risk mitigation and to improve the efficiency with which mutual aid is deployed on both sides of the U.S.-Canada border.[120]

Bilateral Energy Trade[121]

Canada is the largest supplier of U.S. energy imports and the largest recipient of U.S. energy exports, including oil, natural gas, and electricity. Canada is also a major supplier of uranium to the United States. In 2021, Canada was the world's fourth-largest petroleum producer, behind the United States, Russia, and Saudi Arabia. As of January 2022, Canada's reserves—largely in the form of oil sands (bitumen)—are believed to be the fourth largest in the world, after those of Venezuela, Saudi Arabia, and Iran.[122]

In 2022, the value of U.S. petroleum and natural gas imports from Canada was $148.9 billion.[123] That year, Canada provided 60.8% of total U.S. crude oil imports and 92.7% of U.S. natural gas imports (up from 27.4% and 83.1%, respectively, in 2012). Energy prices and trade volumes had dropped in 2020 due to shutdowns related to the COVID-19 pandemic but sharply rebounded in 2021. Energy prices in 2022 were higher overall due to market instability following Russia's invasion of Ukraine (see **Table 2**).

Some Members of Congress have responded to the global energy challenges resulting from the Russia-Ukraine war by examining ways to strengthen bilateral energy ties with Canada.[124] Such Members view Canada as a particularly valuable partner for achieving U.S. energy security and climate objectives because of its reliable oil and gas supply (Canada is not a member of the Organization of the Petroleum Exporting Countries [OPEC]), relatively low-carbon electricity grid, and shared commitments to democracy and environmental standards.[125]

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[117] Canadian Interagency Forest Fire Centre Inc., "Fire Statistics," accessed July 11, 2023; and "Canadian Wildfire Smoke Spreads, 100 Million Americans Under Air-Quality Alerts," Reuters, June 29, 2023.

[118] U.S. Department of the Interior, Office of Wildland Fire, "Canada and the United States Commit to Enhanced Wildland Fire Cooperation," press release, June 28, 2023. Hereinafter, Office of Wildland Fire, June 2023.

[119] White House, "Statement by NSC Spokesperson Adam Hodge on Assisting Canada in Responding to Wildfires," June 16, 2023.

[120] Office of Wildland Fire, June 2023.

[121] Written by Kyla H. Kitamura, CRS Analyst in International Trade and Finance.

[122] U.S. Energy Information Administration, "Country Analysis Executive Summary: Canada," July 12, 2022.

[123] Data based on Harmonized Tariff Schedule codes 2709, 2710, and 2711. U.S. Census Bureau data, as presented by *Trade Data Monitor*, accessed April 2023.

[124] See, for example, U.S. Congress, Senate Committee on Energy and Natural Resources, *Full Committee Hearing to Examine the U.S.-Canada Energy and Minerals Partnership*, hearing, 117th Cong., 2nd sess., May 17, 2022.

[125] See, for example, opening statement by Senator Joe Manchin, U.S. Congress, Senate Committee on Energy and Natural Resources, *Full Committee Hearing To Examine The U.S.-Canada Energy And Minerals Partnership*, 117th Cong., 2nd sess., May 17, 2022. In 2020, Canada generated 82.6% of its electricity from non-greenhouse gas emitting sources: 62.2% from hydropower, 7.8% from other renewables, and 14.6% from nuclear power. Government of Canada, Natural Resources Canada, *Energy Fact Book 2022-2023*, 2022, p. 60.

Table 2. U.S. Crude Oil Imports from Canada: 2018-2022

	2018	2019	2020	2021	2022
Value (billions current $)	60.8	62.7	42.7	76.0	113.5
Volume (million barrels)	1,255.2	1,338.4	1,275.3	1,352.1	1,347.2
% of Total Oil Imports	46.6	56.3	61	61.4	60.8

Source: U.S. Census Bureau data, as presented by *Trade Data Monitor*, accessed April 2023.

Cross-Border Energy Infrastructure Disputes

U.S.-Canada energy trade has resulted in extensive cross-border infrastructure, including some 71 oil and gas pipelines and 35 electric transmission lines connecting the integrated U.S. and Canadian grids.[126] Several efforts to expand, upgrade, or replace such infrastructure have been contentious, with advocates highlighting the potential benefits for U.S. energy security and the U.S. and Canadian economies and opponents raising concerns about the projects' potential detrimental effects on the environment and local communities. In January 2021, for example, President Biden revoked the required presidential permit for the cross-border construction of the Keystone XL pipeline, asserting that the project "disserves the U.S. national interest" and would not be consistent with the Administration's "economic and climate imperatives."[127] Other projects are subject to ongoing legal challenges, including the "Line 5 Pipeline Replacement/Tunnel Project" and the "New England Clean Energy Connect Transmission Project."

Congress may continue to assess U.S. energy needs and consider legislative measures to facilitate cross-border energy trade and/or address concerns about cross-border infrastructure. In March 2023, the House Committee on Energy and Commerce reported the Promoting Cross-Border Energy Infrastructure Act (H.R. 1058/H.Rept. 118-24). The bill, along with two similar measures introduced in the Senate (S. 23 and S. 989), would establish a new process for approving the construction and operation of cross-border energy infrastructure. Portions of H.R. 1058 were incorporated into the Lower Energy Costs Act (H.R. 1), passed by the House in March 2023.

Line 5 Pipeline Replacement/Tunnel Project[128]

The Line 5 Pipeline is a 30-inch, 645-mile pipeline owned by Enbridge Inc., a Canadian multinational pipeline and energy company, that carries crude oil and natural gas liquids from Superior, WI, to Sarnia, Ontario. Line 5 was constructed in 1953 under an easement from the State of Michigan as part of a pipeline system linking oil fields in Alberta, Canada, to refinery markets in the Great Lakes region. President Eisenhower originally issued a presidential permit for the pipeline's border crossing in April 1953.[129] The permit was reissued by the State Department under delegated presidential authority in 1991.[130] A key segment of Line 5 is an

[126] Embassy of Canada in the United States, Connect2Canada, "Energy & The Environment," at https://connect2canada.com/canada-u-s-relationship/energy-and-the-environment/.

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

[128] Written by Paul W. Parfomak, CRS Specialist in Energy Policy.

[129] Executive Office of the President, "Presidential Permit Authorizing the Lakehead Pipe Line Company, Inc, ("Lakehead") to Construct, Operate, Maintain, and Connect Facilities for the Transportation and Exportation to Canada of Oil," April 28, 1953.

[130] U.S. Department of State, "Authorizing Lakehead Pipeline Company, Limited Partnership, to Operate and Maintain a Pipeline at the International Boundary Line Between the United States and Canada," December 12, 1991.

underwater crossing at the Straits of Mackinac—between Michigan's upper and lower peninsulas—where the pipeline splits into two 20-inch parallel lines and runs for 4.5 miles across the lakebed at the junction of Lake Michigan and Lake Huron.[131] This crossing has been an environmental concern due to the risk it poses of a "worst case" oil spill into the Great Lakes.[132]

In 2018, Michigan and Enbridge entered an agreement whereby Enbridge would construct a tunnel under the straits, replace the existing Line 5 segment with a new pipeline segment through the tunnel, and would "permanently deactivate" the old segment.[133] However, in 2020, under a new gubernatorial administration, state officials notified Enbridge that the 1953 easement was being revoked on safety grounds, requiring the Line 5 segment across the straits to cease operating by May 2021. Enbridge subsequently filed a challenge in federal court to the state's jurisdiction and shutdown order, initiating ongoing litigation. Most recently, as of March 2023, the state had appealed an unfavorable U.S. district court ruling in order to return its case to state court. The pipeline continues to operate in the meantime. Separately, Enbridge applied to the U.S. Army Corps of Engineers for tunnel project permits required under the Clean Water Act (33 U.S.C. §1344) and the Rivers and Harbors Act of 1899 (33 U.S.C. §403). This permit review process also is ongoing. On March 23, 2023, the Corps announced it planned to publish an environmental impact statement for the tunnel project in spring 2025.[134]

The Canadian government ardently supports the continued operation of Line 5. Canada has intervened though public statements and court filings, citing a 1977 pipeline treaty with the United States that prohibits a "public authority in the territory of either" from instituting "any measures ... which are intended to, or which would have the effect of, impeding, diverting, redirecting or interfering with in any way the transmission of hydrocarbon in transit."[135] In October 2021, Canada announced it was formally invoking the dispute settlement provision of the treaty regarding Line 5.

In November 2021, the White House Deputy Press Secretary stated that "both the U.S. and Canada will engage constructively" in Line 5 negotiations and that shutting down the existing pipeline "is something that we're not going to do." However, litigation unrelated to the tunnel project complicates matters. In September 2022, a U.S. district court ruled that a segment of Line 5 was trespassing on tribal lands in Wisconsin.[136] On June 16, 2023, the court ordered Enbridge to reroute Line 5 around the tribal land—or shut it down—within three years.[137] Enbridge has begun the process for the reroute but has expressed concerns about securing the necessary permits in

[131] Enbridge, "About Line 5," at https://www.enbridge.com/projects-and-infrastructure/public-awareness/line-5-michigan/about-line-5.

[132] Michigan Technological University, *Independent Risk Analysis for the Straits Pipelines, Final Report*, September 15, 2018.

[133] State of Michigan and Enbridge Energy, "Second Agreement Between the State of Michigan, Michigan Department of Environmental Quality, and Michigan Department of Natural Resources and Enbridge Energy, Limited Partnership, Enbridge Energy Company, Inc., and Enbridge Energy Partners, L.P.," October 3, 2018.

[134] US Army Corps of Engineers, "Corps of Engineers Revises Enbridge Line 5 EIS Schedule to Ensure Thorough Analysis," press release, March 23, 2023.

[135] Government of the United States and Government of Canada, *Agreement Between the Government of Canada and the Government of the United States of America Concerning Transit Pipelines*, E101884 - CTS 1977 No. 29, January 1977.

[136] *Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation v. Enbridge Energy Company, Inc. and Enbridge Energy, L.P.*, U.S District Court for the Western District of Wisconsin, Case: 3:19-cv-00602-wmc, September 7, 2022.

[137] *Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation v. Enbridge Energy Company, Inc. and Enbridge Energy, L.P.*, U.S District Court for the Western District of Wisconsin, Case: 3:19-cv-00602-wmc, June 16, 2023.

time to meet the three-year deadline. Enbridge reportedly plans to appeal the order. The U.S. and Canadian governments reportedly have remained in negotiations regarding Line 5 and Canada's treaty invocation.[138] How the Wisconsin order may affect, or be affected by, these negotiations remains to be seen.

A provision in proposed FY2024 appropriations legislation from the State, Foreign Operations, and Related Programs Subcommittee of the House Appropriations Committee would prohibit the Secretary of State from using appropriated funds "to impede the uninterrupted transmission of hydrocarbons by pipeline" between the United States and Canada "as ratified" by the 1977 U.S.-Canada pipeline treaty.[139] Pursuant to a 2019 executive order, presidential permit authority again resides with the President, with the State Department playing only an administrative and advisory role.[140] Given the change in the State Department's role under the executive order, it is unclear how the appropriations provision could affect Line 5's presidential permit or continued operation.

New England Clean Energy Connect Transmission Project[141]

The New England Clean Energy Connect (NECEC) project is a proposed 145-mile electric transmission line in Maine that would facilitate the sale of electricity generated in Québec to utilities in New England, especially Massachusetts.[142] Utilities in Massachusetts agreed to buy additional hydropower supplies from Hydro-Québec for the next 20 years—all dependent upon construction of the NECEC.

Central Maine Power, the transmission line developer, began constructing the line in 2021 after receiving all necessary approvals from the U.S., Canadian, and state/provincial governments. Construction stopped following a November 2021 Maine voter referendum that effectively blocked the project. Several court rulings since then have been favorable to the project, including rulings that the 2021 referendum violated the Maine state constitution. As of May 2023, the state government had given permission for construction to resume but the transmission line's completion date remained uncertain.[143]

NECEC proponents say increased imports of hydropower from Québec would displace the use of fossil fuel-fired power plants and reduce greenhouse gas emissions. Additionally, hydropower has certain operational characteristics that other non-fossil energy sources such as wind and solar do not, giving hydropower additional value in the electricity system.[144] Opponents say the transmission line would harm the local environment because the part of the line's path not within existing utility corridors requires tree clearing in largely intact forests in Maine. Most of that path

[138] Sheri McWhirter, "Line 5 Tunnel Analysis by Feds Delayed by More Than a Year," *MLive*, March 24, 2023.

[139] Sec. 7061(e) of the subcommittee mark of the FY2024 Department of State, Foreign Operations, and Related Programs Appropriations Act, at https://docs.house.gov/meetings/AP/AP04/20230623/116161/BILLS-118—AP—StateForOp-FY24SFOPSSubcommitteeMark.pdf.

[140] Executive Order 13867, "Issuance of Permits With Respect to Facilities and Land Transportation Crossings at the International Boundaries of the United States," April 10, 2019.

[141] Written by Ashley J. Lawson, CRS Analyst in Energy Policy.

[142] For background on the proposed transmission line, see the project website at https://www.necleanenergyconnect.org/, and David Iaconangelo, "$1B Transmission Smack Down May Upend Northeast Renewables," *E&E News*, November 12, 2021.

[143] For discussion of court rulings related to the project, see Jeffrey Porter, "Another Legal Victory for New England Clean Energy Connect but, Unbelievably, It Still Isn't Nearly out of the Woods," *National Law Review*, vol. XII, no. 334; *Bangor Daily News*, "Jury Sides with CMP in Fight over Hydropower Corridor," April 20, 2023; and Steve Mistler, "New England Hydropower Project Can Resume Years After Maine Voters Protested," WBUR, May 17, 2023.

[144] For a discussion of the operational characteristics of different energy sources for electricity, see CRS In Focus IF11257, *Variable Renewable Energy: An Introduction*, by Ashley J. Lawson.

had already been cleared of trees before the 2021 referendum took place.[145] The U.S. Army Corps of Engineers and the U.S. Department of Energy each conducted environmental assessments of the project prior to construction and found the project would have no significant impacts.[146]

Climate Change Collaboration

Canada and the United States have experienced similar debates over whether and how to address greenhouse gas-induced climate change. Populations of both countries emit among the highest levels of greenhouse gas emissions 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 3**). Further, national infrastructures were constructed in the context of inexpensive and generally abundant fossil fuels, which are responsible for the majority of greenhouse gas 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. In both countries, domestic environmental protection authorities are shared between federal and sub-federal governments. Canada typically has sought policies compatible with those of the United States, with the understanding that there could be significant economic benefits in harmonizing pollution control strategies to facilitate trade and make compliance easier for transnational businesses.

Table 3. Canada and United States: Selected Comparative Greenhouse Gas Emissions Indicators, 2019

	Canada	United States
Net GHG Emissions ($MtCO_2e$)	774.3	5,770,0
Net GHG Emissions per Capita (t CO_2e)	20.6	17.6
Net GHG Emissions per GDP (t CO_2e/million $)	444.5	270.0
Change Net GHG Emissions from Prior Year (%)	-0.3	-2.1
Percentage of Global Emissions (%)	1.6	11.6

Source: World Resources Institute, "Climate Watch Historical GHG Emissions," 2022.

Notes: GHG = greenhouse gas; Mt = million metric tons; t = metric tons; CO_2e = carbon dioxide-equivalent. CO_2e is a metric used to compare emissions from different greenhouse gases by converting those emissions into the equivalent amount of carbon dioxide (CO_2) that would have the same effect on global temperature increase.

Both Canada and the United States also perceive certain vulnerabilities to climate change, including increasing forest fires and habitat losses, 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. As noted (see "Arctic Policy"), 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.

In February 2021, President Biden and Prime Minister Trudeau pledged to work together and with other partners to increase the scale and speed of collective efforts to address climate change.[147] Since then, the leaders have placed particular emphasis on the deployment of low-

[145] Richard Valdmanis, "Maine Voters Reject Quebec Hydropower Transmission Line," Reuters, November 3, 2021.

[146] U.S. Department of Energy, *Presidential Permit PP-438 New England Clean Energy Connect (NECEC)*, at https://www.energy.gov/nepa/articles/doeea-2155-finding-no-significant-impact.

[147] White House, "Roadmap for a Renewed U.S.-Canada Partnership," February 23, 2021.

carbon technologies by seeking to strengthen integrated supply chains for critical minerals, harmonize cross-border standards for electric vehicles, and increase electricity grid integration and resilience. In March 2023, the United States and Canada launched a one-year Energy Transformation Task Force to accelerate such efforts and increase energy security, including through cooperation on civil nuclear technologies.[148]

Inflation Reduction Act and Critical Minerals[149]

Among other areas of collaboration, the United States and Canada are seeking to coordinate their domestic incentives for low-carbon technologies. During the 117th Congress, Canadian officials expressed serious concerns about proposed U.S. content and assembly requirements for electric vehicle tax credits in the legislation commonly referred to as the Inflation Reduction Act of 2022 (IRA; P.L. 117-169).[150] In the final legislation, however, Congress changed the U.S. content and assembly requirements to include North American partners, which largely addressed Canadian concerns about negative impacts on Canada and the integrated North American auto sector.

A portion of the IRA electric vehicle tax credit requires a certain percentage increasing over time, of the value of an electric vehicle battery's critical minerals to be extracted or processed in the United States (or in a free trade agreement partner) or recycled in North America. One reason for this IRA provision is an effort to shift critical minerals supply chains away from the PRC, which currently plays a major role throughout the critical minerals supply chain, particularly in processing.[151] Canada has production and processing capabilities for various critical minerals—including cobalt, graphite, lithium, and nickel, which are key inputs for electric vehicle production.[152] Canada also has joined the U.S.-led Minerals Security Partnership and is working with the United States under a bilateral Joint Action Plan on Critical Minerals Cooperation to increase information and data sharing, promote private sector engagement, coordinate on research and development, and collaborate in multilateral fora.[153] During President Biden's March 2023 visit to Canada, the White House stated that it would make announcements "this spring" about $250 million in funding under Title III of the Defense Production Act for U.S. and Canadian companies to mine and process critical minerals for electric vehicle and storage batteries.[154] The Liberal Party government's 2023 budget proposes C$1.5 billion (about $1.1 billion) for a Critical Minerals Infrastructure Fund to support energy and transportation projects needed to accelerate critical minerals production.

H.Rept. 117-84, incorporated into the explanatory statement accompanying the Consolidated Appropriations Act, 2022 (P.L. 117-103), directed the State Department, in coordination with USTR and the Department of Commerce, to produce a strategy for bolstering cooperation with Canada and Mexico to build resilient and trusted North American supply chains, including on

[148] White House, "Joint Statement by President Biden and Prime Minister Trudeau," March 24, 2023.

[149] Written by Kyla H. Kitamura, CRS Analyst in International Trade and Finance.

[150] Alexander Panetta, "Trudeau Arrives in U.S. with Last-Minute Warning for Democrats About Electric Vehicle Tax Credit," CBC News, November 17, 2021.

[151] See, for example, Senate Majority Leader Chuck Schumer, "Summary of the Energy Security and Climate Change Investments in the Inflation Reduction Act of 2022," July 27, 2022; and Morgan D. Bazilian and Gregory Brew, "The Inflation Reduction Act Is the Start of Reclaiming Critical Mineral Chains," *Foreign Policy*, September 16, 2022.

[152] Government of Canada, Natural Resources Canada, *The Canadian Critical Minerals Strategy*, February 15, 2023.

[153] U.S. Department of State, "Minerals Security Partnership," June 14, 2022; and White House, "Fact Sheet: Strengthening the United States-Canada Partnership," March 24, 2023.

[154] White House, "Joint Statement by President Biden and Prime Minister Trudeau," March 24, 2023. For more information on the Defense Production Act, see CRS Report R47124, *2022 Invocation of the Defense Production Act for Large-Capacity Batteries: In Brief*, by Heidi M. Peters et al.

critical and emerging technologies. H.Rept. 117-401, incorporated into the explanatory statement accompanying the Consolidated Appropriations Act, 2023 (P.L. 117-328), directed the State Department to expeditiously submit that strategy to the House and Senate Appropriations Committees, the House Foreign Affairs Committee, and the Senate Foreign Relations Committee and to update the committees on the implementation of the strategy by September 30, 2023.

Subnational Engagement

U.S. states and Canadian provinces also work together on climate issues. Such cooperation includes the Regional Climate Action Plan, adopted in 2001 and updated in 2017 by the six states and five provinces of the Conference of New England Governors and Eastern Canadian Premiers. The updated plan sets a goal of reducing greenhouse gas emissions by 35% to 45% below 1990 levels by 2030.[155] Likewise, California and Quebec have linked their cap-and-trade programs for greenhouse gas emissions under the Western Climate Initiative since 2014. Nova Scotia and Washington joined the initiative in 2018 and 2021, respectively, though their cap-and-trade programs remain separate from the other jurisdictions. Ontario briefly linked its cap-and-trade program to those of California and Quebec in 2018 but withdrew the same year.

Binational Commissions

The United States and Canada have established several binational commissions to help manage transboundary environmental and natural resources issues. These include the "International Joint Commission," charged with facilitating bilateral cooperation on boundary waters issues, and several fisheries commissions to support implementation of "Bilateral Fisheries Agreements." Congress appropriates funding for these commissions through annual Department of State, Foreign Operations, and Related Programs appropriations acts (see **Table 4**).

Table 4. U.S. Funding for Selected U.S.-Canada Binational Commissions, FY2022-FY2024 Request

(thousands of current U.S. dollars)

	FY2022	FY2023 (enacted)	FY2024 (request)
International Joint Commission	10,802	10,881	11,087
Great Lakes Fishery Commission	47,060	50,000	38,000
International Pacific Halibut Commission	4,762	4,762	4,900
Pacific Salmon Commission	5,500	5,583	5,477

Source: U.S. Department of State, *Congressional Budget Justification, Appendix 1: Department of State Diplomatic Engagement, Fiscal Year 2024*, April 25, 2023, pp. 508, 516.

International Joint Commission[156]

The International Joint Commission (IJC) was established under the 1909 Boundary Waters Treaty between the United States and Canada.[157] The IJC aims to prevent and resolve disputes between the United States and Canada over uses of boundary waters, including issues that can

[155] 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.

[156] Written by Pervaze A. Sheikh, CRS Specialist in Natural Resources Policy.

[157] *Treaty Between the United States and Great Britain Relating to Boundary Waters Between the United States and Canada, U.S.-United Kingdom*, January 11, 1909, 36 Stat. 2448, T.S. 548.

affect drinking water, ecosystems, hydroelectric power generation, commercial shipping, fishing, agriculture, industry, and recreation. The IJC has two primary functions: (1) issuing *references*, which recommend solutions to issues brought to the IJC by the United States and Canada, and (2) issuing *orders of approval* for projects and infrastructure that would affect the natural level of boundary waters. The IJC has six commissioners—three from each country. The United States and Canada fund the IJC, equally sharing expenses for projects and reports.[158]

Recent stakeholder discussions regarding IJC activities have focused on Plan 2014,[159] which was adopted by the IJC via an order of approval in 2016.[160] Plan 2014 aims to provide natural flows to support shoreline ecosystems, prevent extreme water levels, and adapt to climate change. To achieve these goals, the plan regulates flows through the Moses Saunders Dam on the St. Lawrence River, which generates hydropower for Canada, to address water levels in Lake Ontario. Some stakeholders argue that Plan 2014 has led to record-high water levels and flood events in the United States and that should be modified or removed.[161] Some supporters of Plan 2014 contend it improves coastal ecosystems and enhances the resiliency of natural shorelines. Canada is interested in Plan 2014, in large part, because low outflows from the Moses Saunders Dam can lead to high waters in Lake Ontario and flooding in several Canadian cities.[162] The implementation of Plan 2014 is ongoing, and phase I of a review of implementation was completed in 2021.[163] Phase II began in February 2023.[164] Any changes to the plan would have to be approved by the IJC and the U.S. and Canadian governments.

The IJC also may become involved in rising selenium concentration issues that have arisen in the Kootenai River Basin and Lake Koocanusa, which straddles the U.S.-Canada border between British Columbia and Montana and Idaho. Selenium concentrations in these water bodies have been rising due to runoff containing selenium originating, in part, from coal mining in British Columbia. High selenium levels pose threats to fish populations and human health.[165] Some stakeholders question whether the federal and state or provincial standards are sufficient to prevent ecological harm. Others question whether the standards are too stringent.[166] Stakeholders in both countries have asked the U.S. and Canadian governments to submit a reference to the IJC to review selenium concentration standards and address selenium pollution.[167] A March 2023 joint statement by President Biden and Prime Minister Trudeau stated that both countries intend to reach an agreement to reduce and mitigate the impacts of water pollution in the Elk-Kootenai

[158] For more information on the International Joint Commission (IJC), see CRS In Focus IF10761, *The International Joint Commission (IJC)*, by Eva Lipiec and Pervaze A. Sheikh.

[159] IJC, *Regulation Plan 2014 for the Lake Ontario and the St. Lawrence River*, December 2016.

[160] IJC, "IJC Moves Ahead with Plan 2014," press release, December 8, 2016. Hereinafter, IJC press release, 2016.

[161] For example, see New York Attorney General, "AG James and Governor Cuomo File Expanded Lawsuit Against International Joint Commission over Substantial Flooding Damages," November 15, 2019.

[162] IJC press release, 2016.

[163] IJC, Great Lake-St. Lawrence River Adaptive Management Committee, "GLAM Expedited Review of Plan 2014: Phase 1," at https://www.ijc.org/en/glam/glam-expedited-review-plan-2014-phase-1.

[164] IJC, "IJC Committee Begins Second Phase of the Expedited Review of Plan 2014 for Lake Ontario and the St. Lawrence River," February 9, 2023.

[165] U.S. Geological Survey, "Selenium in the Kootenai River Basin, Montana and Idaho, United States, and British Columbia, Canada," 2022.

[166] For example, see Tristan Scott, "Montana Board Urges EPA to Repeal Water Quality Standard on Lake Koocanusa," *Flathead Beacon*, December 22, 2022.

[167] Tristan Scott, "Investigation Urged into Canadian Mining Waste in Montana," Associated Press, June 27, 2021.

watershed.[168] As of June 2023, no joint or unilateral reference on this issue had been submitted to the IJC.

For FY2023, the explanatory statement for the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2023 (P.L. 117-328, Division K) states that a portion of the funds for the IJC are intended to "address gaps and limitations in transboundary governance between British Columbia and bordering U.S. states, including Alaska, Washington, Idaho, and Montana."[169]

Bilateral Fisheries Agreements[170]

The United States and Canada have agreed to a series of bilateral agreements to manage shared fisheries and, in some cases, have established binational commissions to implement the agreements. Congress has enacted implementing legislation for each of the agreements, most of which were ratified after receiving the advice and consent of the U.S. Senate.

The International Pacific Halibut Convention was established in 1923 for joint management of Pacific halibut and was most recently revised in 1979.[171] The convention created the International Pacific Halibut Commission, which has joint representation from the U.S. and Canadian governments and manages the halibut fishery throughout the western EEZs (i.e., up to 200 nautical miles from shore) of both nations.[172] The commission's functions include dividing convention waters into fishing allocation areas, establishing open or closed seasons and catch and size limits within each area, and regulating gear types and spatial closures.[173] The Northern Pacific Halibut Act (P.L. 97-176) implements the convention and authorizes the Secretary of Commerce and the Secretary of Homeland Security to enforce the convention.[174] This law also makes it unlawful to violate any provision of the convention and defines criminal and civil penalties for violations.[175]

The 1954 Convention on Great Lakes Fisheries Between the United States and Canada created the Great Lakes Fishery Commission (GLFC).[176] The GLFC coordinates fisheries research, recommends measures to permit the maximum sustained productivity of stocks of common concern, works toward controlling invasive sea lamprey, and facilitates cooperative fishery management among state, provincial, tribal, and federal agencies.[177] Fishery managers

[168] White House, "Joint Statement by President Biden and Prime Minister Trudeau," press release, March 24, 2023.

[169] Explanatory Statement Submitted by Mr. Leahy, Chair of the Senate Committee on Appropriations, Regarding H.R. 2617, Consolidated Appropriations Act, 2023, *Congressional Record*, vol. 168, part No. 180—Book II (December 20, 2022), p. S9288.

[170] Written by Caitlin Keating-Bitonti and Tony Marshak, CRS Analysts in Natural Resources Policy.

[171] International Pacific Halibut Commission, "The Commission," at https://iphc.int/the-commission. The agreement is formally known as the Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea.

[172] U.S. Department of State, Protocol Amending the Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, Treaties and Other International Acts Series (TIAS) 9855, March 29, 1979.

[173] International Pacific Halibut Commission, *International Pacific Halibut Commission Fishery Regulations 2023*, IPHC-2023-FISHR23, 2023.

[174] 16 U.S.C. §§773-773k.

[175] 16 U.S.C. §§773e-773i.

[176] Convention on Great Lakes Fisheries Between the United States of America and Canada, September 10, 1954, TIAS 3326.

[177] Great Lakes Fishery Commission (GLFC), "History," at http://www.glfc.org/history.php; GLFC, *A Joint Strategic*
(continued...)

cooperatively strive to maintain fisheries in the Great Lakes through stocking and by enforcing harvest and fishing regulations.[178] The Great Lakes Fishery Act (16 U.S.C. §§931-939) implements this convention and authorizes the Secretary of the Interior to undertake lamprey control projects and other measures related to it. In 1981, U.S. and Canadian fishery managers further agreed to cooperate to maintain working relationships through a nonbinding agreement, as facilitated by the GLFC.[179] This nonbinding agreement was revised in 1997 and serves as the current joint strategic plan for Great Lakes fisheries management.[180]

The implementation of the 1981 United States-Canada Albacore Treaty (commonly known as the Pacific Albacore Tuna Treaty; P.L. 108-219) authorizes the Secretary of Commerce to "promulgate regulations necessary to discharge the obligations of the United States under the Treaty and its Annexes."[181] The Secretary of Commerce delegated authority to the National Marine Fisheries Service to create an annual list of U.S. vessels allowed to fish for Pacific albacore tuna in Canadian waters.[182] This agreement also allows Canadian vessels to fish for Pacific albacore tuna in U.S. waters. Under the treaty, each nation is allowed to fish in the area 12 nautical miles seaward from the other nation's shore to the extent of that nation's EEZ.[183] Fisheries data between the two governments shall be exchanged under the treaty.[184] The agreement was amended in 2002 to reflect the higher abundance and joint fishing of Pacific albacore tuna in U.S. waters than in Canadian waters, as agreed to by the Secretary of State, and codified by law in April 2004 following the advice and consent of the U.S. Senate (Treaty Doc. 108-1).

The 1985 Pacific Salmon Treaty (PST) between the United States and Canada aims to prevent overfishing and provide for optimum production of shared salmon fisheries through cooperative management and research efforts (Treaty Doc. 99-2).[185] The PST sets catch limits on transboundary stocks of Pacific salmon occurring between southeastern Alaska, British Columbia, and Washington State.[186] The PST also strives to ensure each country receives monetary and nonmonetary (i.e., social, economic, cultural, or ecosystem) benefits equivalent to the production of salmon originating in its waters.[187] The Pacific Salmon Commission (PSC) implements the

Plan for Management of Great Lakes Fisheries (Adopted in 1997 and Supersedes 1981 Original), Great Lakes Fisheries Commission Misc. Publ. 2007-01, Ann Arbor, MI, November 2007. Hereinafter, GLFC, *Joint Strategic Plan*.

[178] GLFC, "Fisheries Management: Working to Sustain the Resource," at http://www.glfc.org/fishery-management.php.

[179] Ibid.

[180] GLFC, *Joint Strategic Plan*.

[181] 16 U.S.C. §1821 note. The agreement is formally known as the Treaty Between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, May 26, 1981, TIAS 10057.

[182] 50 C.F.R. § 300.172.

[183] National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS), "Guide for Complying with the Vessel Fishing Requirements of the U.S. Canada Albacore Treaty 2023," April 17, 2023.

[184] Ibid.

[185] Treaty Between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, Including Annexes and a Memorandum of Understanding to the Treaty, January 28, 1985, TIAS 11091, as amended through February 2022. The agreement is commonly known as the PST. Hereinafter, PST, 2022.

[186] NOAA defines *transboundary stocks* as "stocks of fish that migrate across international boundaries or, in the case of the United States, across the boundaries between states or fishery management council (FMC) areas of control." U.S. Department of Commerce, NOAA, "NOAA Fisheries Glossary," NOAA Technical Memorandum NMFS/F-SPO-69, June 2006, p. 55; Kathleen A. Miller, "North American Pacific Salmon: A Case of Fragile Cooperation," in *Papers Presented at the Norway-FAO Expert Consultation on the Management of Shared Fish Stocks. Bergen, Norway, 7-10 October 2002*, ed. Food and Agricultural Organization of the United Nations (FAO), vol. 695, Suppl. (Rome: FAO, 2003), pp. 105-122. Hereinafter, Miller, "North American Pacific Salmon."

[187] PST, 2022.

PST and governs overall harvest and allocation of jointly exploited salmon stocks.[188] The PSC is composed of delegates and commissioners from the United States and Canada, representing national, provincial/state, First Nation, and U.S. tribal interests. Following continued declines of U.S. and Canadian Chinook and Coho salmon stocks in the 1980s and 1990s,[189] and listings of U.S. Pacific northwest salmon stocks under the Endangered Species Act (16 U.S.C. §§1531-1544), the commission developed a 10-year agreement in 1999.[190] This agreement replaced previously set harvest ceilings with longer-term harvest limitations to conserve and restore depressed salmon stocks.[191] The PSC recommended new agreements, adopted in 2008 and 2018, for continued science-based conservation and bilateral sharing of Pacific salmon stocks, with the current agreement effective through 2028.[192] The Pacific Salmon Treaty Act of 1985 (P.L. 99-5) implements the PST and its recurrent 10-year agreements.[193] The act also includes details about PSC commissioners and panels, lists unlawful activities, and provides penalties for violations.[194]

The 2003 Agreement Between the Government of the United States and the Government of Canada on Pacific Hake/Whiting (Treaty Doc. 108-24) manages the transboundary stock of Pacific whiting, also known as Pacific hake.[195] The agreement allocates a set percentage of the overall total allowable catch for Pacific hake/whiting to U.S. and Canadian fishers.[196] As of 2021, the Pacific hake/whiting fishery represented the largest fishery by weight off the U.S. west coast,[197] with migratory populations accounting for 61% of its pelagic biomass.[198] Previously, informal allocations and overfishing resulted in stock declines,[199] and the stock was classified as overfished in 2002.[200] The agreement gave the United States a right to nearly 74% of the overall total allowable catch and Canada a right to the remaining amount.[201] As of April 2023, the stock is no longer classified as overfished or subject to overfishing, and allocations are continuing as

[188] Pacific Salmon Commission, "The Pacific Salmon Commission," at https://www.psc.org/about-us/history-purpose.

[189] Miller, "North American Pacific Salmon"; Richard Beamish, "I think that I will just sit here and wait," *ICES Journal of Marine Science*, vol. 80, no. 4 (May 2023).

[190] PST, 2022; Miller, "North American Pacific Salmon."

[191] PST, 2022; Miller, "North American Pacific Salmon."

[192] PST, 2022.

[193] PST, 2022; 16 U.S.C. §§3631-3645. Only the 1999 agreement is directly referenced in the Pacific Salmon Treaty Act, as amended in P.L. 109-479.

[194] 16 U.S.C. §3637.

[195] Agreement Between the Government of the United States of America and the Government of Canada on Pacific Hake/Whtiing, November 21, 2003, TIAS 08-625. The agreement is commonly known as the Pacific Hake/Whiting Treaty or the Pacific Whiting Treaty. Hereinafter, Agreement on Pacific Hake/Whiting.

[196] Agreement on Pacific Hake/Whiting, Article III.

[197] NOAA, NMFS, Office of Science and Technology, *Commercial Landings Query*, accessed June 2, 2023, at http://www.fisheries.noaa.gov/foss.

[198] NOAA defines *pelagic* as, "inhabiting the water column as opposed to being associated with the sea flood, generally occurring anywhere from the surface to 1,000 meters." U.S. Department of Commerce, NOAA, "NOAA Fisheries Glossary," NOAA Technical Memorandum NMFS/F-SPO-69, June 2006, p. 35; Jason S. Link and Anthony R. Marshak, *Ecosystem-Based Fisheries Management: Progress, Importance, and Impacts in the United States* (Oxford: Oxford University Press, 2021). Hereinafter, Link and Marshak, *Ecosystem-Based Fisheries Management*.

[199] The Agreement on Pacific Hake/Whiting formalized a process for Pacific hake/whiting allocations that had been conducted since the 1970s through informal joint U.S.-Canada stock assessments and stock management measures. Owen S. Hamel et al., "Biology, Fisheries, Assessment, and Management of Pacific Hake (*Merluccius productus*)," in *Hakes: Biology and Exploitation*, ed. Hugo Aranciba (New York, NY: John Wiley and Sons, Ltd, 2015), pp. 234-262.

[200] No formal agreement on percentage shares or for jointly addressing overfishing was reached until the Agreement on Pacific Hake/Whiting. Link and Marshak, *Ecosystem-Based Fisheries Management*.

[201] Agreement on Pacific Hake/Whiting, Article III.

specified in the joint agreement.[202] The Pacific Whiting Act (P.L. 109-479) authorizes the Secretary of Commerce to establish a catch level for Pacific whiting corresponding to standards and procedures agreed to by the United States and Canada.[203] The law also includes information about U.S. representation on the joint Pacific hake/whiting bilateral bodies, enforcement, prohibited acts, and penalties for violations.[204]

Such agreements could provide templates for addressing bilateral disputes over other fisheries, such as American lobster, Atlantic sea scallop, and New England and west coast groundfish, whose distributions are projected to shift further northward from the United States into Canadian waters.[205] The explanatory statement accompanying the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2023 (P.L. 117-328, Division K), directed the Secretary of State to work with Canadian officials and relevant stakeholders to "develop an agreement that addresses territorial disputes and conflicting fisheries management measures in the Gulf of Maine."[206] The Secretary was to submit a report to the Appropriations Committees on progress toward reaching such an agreement within 120 days of enactment (i.e., by April 28, 2023).

Great Lakes Cooperation

The Great Lakes contain 20% of the world's fresh water. They serve as the primary source of drinking water for approximately 28 million people in the United States and Canada and support a wide range of economic activities, including farming, manufacturing, and tourism.[207] 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 (see "Great Lakes Water Quality Agreement" and "Great Lakes Protection and Restoration Initiatives"). Congress authorizes and appropriates funding for restoration efforts and may continue to oversee the implementation of such efforts. Congress also may track Canadian policies and proposals that could affect the Great Lakes, such as a potential nuclear waste repository (see "Nuclear Waste Storage Proposal").

Great Lakes Water Quality Agreement[208]

The United States and Canada first signed the Great Lakes Water Quality Agreement (GLWQA) in 1972 and amended it in 1983, 1987, and 2012.[209] GLWQA provides a framework for

[202] Joint Technical Committee of the Pacific Hake/Whiting Agreement Between the Governments of the United States and Canada, NMFS and Fisheries and Oceans Canada, *Status of the Pacific Hake (Whiting) Stock in U.S. and Canadian Waters in 2023*, February 16, 2023.

[203] 16 U.S.C. §§7001-7010.

[204] 16 U.S.C. §§7002-7005, 7009.

[205] James W. Morley et al., "Projecting Shifts in Thermal Habitat for 686 Species on the North American Continental Shelf," *PLoS One*, vol. 13, no. 5 (2018), e0196127, pp. 1-28.

[206] Explanatory Statement Submitted by Mr. Leahy, Chair of the Senate Committee on Appropriations, Regarding H.R. 2617, Consolidated Appropriations Act, 2023, *Congressional Record*, vol. 168, part No. 180—Book II (December 20, 2022), p. S9286.

[207] U.S. Environmental Protection Agency (EPA) and Environment and Climate Change Canada, *State of the Great Lakes 2022 Report*, July 29, 2022, p. 4.

[208] Written by Laura Gatz, CRS Specialist in Environmental Policy.

[209] Great Lakes Water Quality Agreement, Protocol Amending the Agreement Between Canada and the United States (continued...)

identifying binational priorities and coordinating actions to restore and protect water quality and ecosystem health in the Great Lakes.[210] The 2012 amendments aimed to better identify and manage existing environmental issues and to strengthen efforts to anticipate and prevent ecological harm.[211]

The 2012 GLWQA includes 13 articles, which are general provisions that describe the two countries' objectives and responsibilities. It also includes 10 annexes, which include commitments on specific environmental issues that can affect water quality in the Great Lakes. The 2012 GLWQA added provisions to address aquatic invasive species, habitat degradation, and the effects of climate change; it also continued to support work on existing threats to public health and the environment, including harmful algal blooms, toxic chemicals, and vessel discharges.[212]

The U.S. Environmental Protection Agency (EPA) Great Lakes National Program Office coordinates U.S. efforts to fulfill the commitments under the GLWQA. Various federal agencies and programs implement these efforts, in coordination and consultation with states, tribes, local agencies, and others. Environment and Climate Change Canada is Canada's lead implementing agency and coordinates with other federal agencies, the government of Ontario, and local partners.

Great Lakes Protection and Restoration Initiatives[213]

The United States and Canada both have established initiatives intended to protect and restore the Great Lakes. The Great Lakes Restoration Initiative (GLRI), codified in 2015 through amendments to the Clean Water Act, is an EPA-led, multiagency effort to protect and restore the Great Lakes.[214] The GLRI is guided by an action plan—a framework for restoring the Great Lakes ecosystem and achieving the commitments agreed to in the GLWQA.[215] The latest action plan, summarizing ecosystem restoration actions to be implemented from FY2020 to FY2024, focuses on the five priority areas identified in statute: (1) toxic substances and areas of concern; (2) invasive species; (3) nonpoint source pollution impacts on nearshore health; (4) habitats and species; and (5) accountability, monitoring, evaluation, communication, and partnership activities.[216] The EPA and its partners began developing the FY2025-FY2029 action plan in February 2023.[217]

Congress reauthorized the GLRI in 2021 (P.L. 116-294), increasing the authorized appropriations level to $375.0 million in FY2022, with subsequent increases of $25.0 million each year to a maximum of $475.0 million in FY2026. Congress appropriated $348.0 million for the GLRI in

of America on Great Lakes Water Quality, 1978, as Amended on October 15, 1983 and on November 18, 1987, September 7, 2012, TIAS 13-212.

[210] EPA, "What Is GLWQA?," at https://www.epa.gov/glwqa/what-glwqa.

[211] Ibid. See also EPA and Environment and Climate Change Canada, "About the Great Lakes Water Quality Agreement," at https://binational.net/agreement/.

[212] For full list of the Great Lakes Water Quality Agreement (GLWQA) annexes and links to updated information about the status of each annex or issue, see EPA, "GLWQA Annexes," at https://www.epa.gov/glwqa/glwqa-annexes.

[213] Written by Eva Lipiec, CRS Analyst in Natural Resources Policy. For more information, see CRS In Focus IF12280, *Great Lakes Restoration Initiative (GLRI)*, by Laura Gatz and Eva Lipiec.

[214] P.L. 114-113, §426; 33 U.S.C. §1268(c)(7).

[215] 33 U.S.C. 1268(c)(7). For more about the Great Lakes Restoration Initiative (GLRI), see Great Lakes Restoration, "About," at https://www.glri.us/about.

[216] Great Lakes Restoration, *Great Lakes Restoration Initiative, Action Plan III, Fiscal Year 2020 –Fiscal Year 2024*, October 2019.

[217] Great Lakes Restoration, "EPA and Its Federal Partners Begin to Develop the Next Great Lakes Restoration Initiative (GLRI) Five-Year Action Plan," February 17, 2023.

FY2022 and $375.0 million for the GLRI in FY2023.[218] The Biden Administration has requested $368.2 million for the GLRI in FY2024.[219] The Infrastructure Investment and Jobs Act (P.L. 117-58) provided an additional $200.0 million annually in supplemental appropriations for the GLRI for FY2022 through FY2026.

Canada allocated a total of C$44.8 million (about $34.5 million) to its Great Lakes Protection Initiative, intended to meet Canada's commitments under the GLWQA, between 2017 and 2022.[220] Some Members of Congress have expressed concerns with the adequacy of that funding amount and have called on the Canadian government to increase expenditures on the initiative.[221] During President Biden's March 2023 visit to Canada, Prime Minister Trudeau pledged C$420.0 million (about $323 million) over 10 years to "protect and restore" the Great Lakes.[222]

Nuclear Waste Storage Proposal[223]

Currently, spent nuclear fuel (SNF) produced due to commercial nuclear power production in Canada is managed at the nuclear reactor site where the SNF was produced, similar to commercial SNF produced in the United States.[224] According to the Canadian Nuclear Waste Management Organization (NWMO),[225] as of June 30, 2021, approximately 3.1 million used fuel bundles (SNF) were stored at seven sites in Canada.[226] The NWMO estimates a total of 5.5 million used fuel bundles will have accumulated by the end of these reactors' life cycles, requiring long-term storage and management.

The NWMO is currently considering several potential deep geological repository sites, some of which are in the Great Lakes region, to permanently store and manage SNF. No deep geological repositories for SNF and other high-level nuclear wastes are known to operate in the world to date.[227] According to NWMO, 21 sites were initially considered, where communities requested a

[218] U.S. Congress, House Committee on Appropriations, Department of the Interior, Environment, and Related Agencies Appropriations Bill, 2022, Report Together with minority views to accompany H.R. 4372, 117th Cong., 1st sess., July 6, 2021, H.Rept. 117-83, p. 88.H. Rept. 117-83. The explanatory statement accompanying FY2023 appropriations law stated "The Agency shall continue to follow the direction as provided in House Report 117–83 and Senate Report 115—276 related to the Great Lakes Restoration Initiative" (Explanatory Statement Submitted by Mr. Leahy, Chair of the Senate Committee on Appropriations, Regarding H.R. 2617, Consolidated Appropriations Act, 2023, Congressional Record, daily edition, vol. 168, part 2 (December 20, 2022), p. S8656).

[219] EPA, "FY2024 EPA Budget in Brief," March 2023, p. 89.

[220] Environment and Climate Change Canada, *Evaluation of Freshwater Action Plan: Great Lakes Protection Initiative*, April 2022, p. 1.

[221] Letter from Brian Higgins, Member of Congress; Bill Huizenga, Member of Congress; and Marcy Kaptur, Member of Congress et al. to Honorable Joseph R. Biden, President of the United States, March 8, 2023.

[222] White House, "Joint Statement by President Biden and Prime Minister Trudeau," March 24, 2023.

[223] Written by Lance N. Larson, CRS Analyst in Environmental Policy.

[224] Canadian nuclear power plants rely upon Candu (Canada Deuterium Uranium) reactors, which use *heavy water* (deuterium oxide) as a moderator and coolant. These reactors differ from light (ordinary) water reactors used in the United States, as they are fueled by natural uranium as opposed to enriched uranium.

[225] Nuclear Waste Management Organization, at https://www.nwmo.ca/.

[226] See Nuclear Waste Management Organization, "How Is It Stored Today?," at https://www.nwmo.ca/en/Canadas-Plan/Canadas-Used-Nuclear-Fuel/How-Is-It-Stored-Today.

[227] In the United States, Congress defined *spent nuclear fuel* (SNF) and *high-level nuclear waste* (HLW) in the Nuclear Waste Policy Act of 1982 (NWPA), as amended (See 42 U.S.C. §10101). The NWPA defines SNF as "withdrawn from a nuclear reactor following irradiation" and HLW as "highly radioactive material from reprocessing spent nuclear fuel." Although they are quite different technically, under the NWPA, SNF and waste from reprocessing are both defined legally as HLW. In the United States, the NWPA requires the permanent disposal of SNF and HLW in a geologic repository at Yucca Mountain, NV (42 U.S.C. §1010(18)).

(continued...)

preliminary assessment. On April, 29, 2022, NWMO narrowed the selection to two sites in Ontario: SON-South Bruce (Saugeen Ojibway Nation) and a potential site near Ignace known as Wabigoon-Ignace.[228] Some local community members and First Nation organizations in Canada reportedly have expressed opposition to siting the repository at either location, and in August 2022 the NWMO revised its timeline for a site selection to 2024.[229] Concurrently with the NWMO program, Ontario Power Generation had proposed to build a repository for intermediate-level radioactive waste near Lake Huron but canceled the project in 2020.[230]

Some Members of Congress have expressed concerns about Canadian proposals to store nuclear waste in the Great Lakes region.[231] Resolutions introduced in March 2023 (H.Res. 243 and S.Res. 117) would express the sense of the House and the Senate, respectively, that Canada should not allow a permanent nuclear waste repository to be built within the Great Lakes Basin. The resolutions would call on the President and Secretary of State to work with the Canadian government to prevent the construction of such a repository and to find a long-term storage solution that is safe, responsible, and does not pose a threat to the Great Lakes.

Columbia River Treaty Review[232]

The Columbia River Treaty (CRT),[233] ratified by the United States and Canada in 1964, is an international agreement between the United States and Canada for the cooperative development and operation of the water resources of the Columbia River Basin.[234] The CRT provided for the construction and operation of three dams in Canada and one dam in the United States whose reservoir extends into Canada. Together, the dams provide significant flood protection benefits in both countries. In exchange for these benefits, the United States agreed to provide funding for dam construction and to provide Canada with lump-sum cash payments totaling $64.4 million and

The Canadian Nuclear Safety Commission defines *high-level radioactive waste* as "used (irradiated) nuclear fuel whose owners have declared it as radioactive waste and/or which generates significant heat through radioactive decay." See Canadian Nuclear Safety Commission, "High-Level Radioactive Waste," at http://nuclearsafety.gc.ca/eng/waste/high-level-waste/index.cfm.

Deep geological repositories for SNF are under consideration or development in multiple countries. For an overview of those activities, see Cindy Vestergaard, Rowen Price, and Trinh Le, *Geological Disposal of Spent Nuclear Fuel*, Stimson Center, 2021.

[228] Cory Bilyea, "NWMO Update DGR Site Location Language," Canadian Press, April 29, 2022.

[229] Cory Bilyea, "NWMO Extends Timeline for Site Selection on Heels of Strong 'No' from Nishnawbe Aski Nation," Canadian Press, August 17, 2022.

[230] According to the Canadian Nuclear Safety Commission, *intermediate-level radioactive wastes* (ILW) "generally contains long-lived radionuclides in concentrations that require isolation and containment for periods greater than several hundred years. ILW needs no provision, or only limited provision, for heat dissipation during its storage and disposal. Due to its long-lived radionuclides, ILW generally requires a higher level of containment and isolation than can be provided in near-surface repositories." See Canadian Nuclear Safety Commission, "Low- and Intermediate-Level Radioactive Waste," at http://nuclearsafety.gc.ca/eng/waste/low-and-intermediate-waste/index.cfm.

[231] Joseph Gedeon, "'We Don't Want It': Great Lakes Lawmakers Reject Canada's Nuclear Waste Proposal," *Politico*, March 22, 2023.

[232] Written by Charles V. Stern, CRS Specialist in Natural Resource Policy. For more information, see CRS Report R43287, *Columbia River Treaty Review*, by Charles V. Stern.

[233] Treaty Between Canada and the United States of America relating to Cooperative Development of the Water Resources of The Columbia River Basin, January 17, 1961, TIAS 5638.

[234] After Canadian ratification, the Colombia River Treaty went into effect in 1964.

a portion of downstream hydropower that is attributable to Canadian operations under the CRT. These hydropower benefits are generally known as the *Canadian Entitlement*.[235]

The CRT has no specific end date. Beginning in 2014, both nations have had the ability to terminate most provisions of the CRT with at least 10 years' written notice (i.e., as early as 2024). As of June 2023, neither country has given notice of termination; rather, both countries have indicated support for continuing the treaty, albeit with modifications. If the CRT is not terminated or modified, most of its provisions are to continue indefinitely. One exception is the flood control provisions, which are to transition automatically to "called-upon" operations in September 2024, wherein the United States requests that Canada carry out flood control operations and provides compensation.

The U.S. Army Corps of Engineers and the Bonneville Power Administration, in their joint role as the *U.S. entity* overseeing the CRT, undertook a review of the treaty from 2009 to 2013. Based on studies and stakeholder input, they provided to the Department of State in December 2013 a regional recommendation that recommended continuing the CRT with certain modifications.[236] Some stakeholders have disagreed with the recommended modifications. The Canadian Entity (i.e., the Province of British Columbia) also has recommended modifications "within the Treaty framework."[237] As of July 2023, CRT modification negotiations are ongoing and the United States and Canada have held 17 rounds of negotiations (dating to 2018).

Some Members of Congress are tracking the negotiations closely and have called on President Biden to prioritize conclusion of the negotiations in his engagement with the Canadian government. These Members have expressed concerns about increased flood risks and economic uncertainty in the absence of an agreement and have called on both governments to negotiate in good faith and resist the urge to link the treaty resolution to other bilateral issues.[238] The Water Resources Development Act of 2022 (Division H of P.L. 117-263) included a provision authorizing the Secretary of the Army to study the feasibility of a flood risk management project to potentially reduce the U.S. reliance on Canada for flood risk management in the Columbia River Basin.[239] The Secretary is to carry out the study in coordination with other federal and state agencies and Indian tribes and to report recommendations to the House Committee on Transportation and Senate Committee on Environment and Public Works. That same section authorized the Secretary of the Army to expend funds for called-upon Canadian flood control operations in the Columbia River Basin, but only when such funds are appropriated by Congress for these purposes.

Outlook

Given the breadth and depth of U.S.-Canada relations, the countries are likely to remain close partners. Over the past three years, the U.S. and Canadian governments have sought to build on the countries' long-standing areas of cooperation to address current challenges, including climate change, global supply chain disruptions, and increased geopolitical competition from countries

[235] Some have estimated the Canadian Entitlement to be worth as much as $335 million annually, in 2012 dollars. See U.S. Entity, "Columbia River Treaty 2014/2024 Review: Recent Study Results," June 2012.

[236] U.S. Entity, *U.S. Entity Regional Recommendation for the Future of the Columbia River Treaty After 2023*," December 13, 2013.

[237] Province of British Columbia, *Columbia River Treaty Review: B.C. Decision*, March 13, 2014.

[238] Letter from Maria Cantwell, United States Senator; James E. Risch, United States Senator; and Cathy McMorris Rodgers, Member of Congress, et al. to President Joe Biden, March 22, 2023.

[239] P.L. 117-263, §8309.

such as Russia and China. Many of these efforts are still nascent, and their impact may depend on the extent to which the United States and Canada are willing to commit domestic resources and political capital to implementation. In the absence of sustained commitments, joint initiatives may stall, giving way to increased focus on trade disputes and other bilateral irritants. Congress is likely to continue shaping U.S.-Canada relations using its legislative and oversight prerogatives. Congressional actions also are likely to inform Canadian perceptions about political polarization in the United States and the extent to which such polarization may affect the U.S.-Canada partnership.

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