

Canadian Export Guide 2

Export Guide completed for: **VEDP**

Date: **June, 2022**

Report prepared by: **CIDEP**
Montreal, Quebec Canada

Contacts: **Ludovic Ortuno**
Christopher Littler
E-mails: l.ortuno@cidepiqc.com
c.littler@cidepiqc.com

The Virginia Economic Development Partnership retained Montreal based CIDEP to be its trade development services consultant contractor in Canada, www.cidepiqc.com. Ludovic Ortuno is the COO of this firm, whilst Christopher Littler is the trade analyst. They conducted research for this report.

Contents

I Establishing a presence in Canada	1
1.1. Introduction & key figures	1
1.2. Establishing a business.....	2
1.3. Registering a business.....	3
1.4. Permits and licences	5
1.5. Foreign Investment	6
1.6. Business support and financing	7
II Preparing for a Trade Show in Canada	9
2.1. Useful research before going to a trade show.....	9
2.2. Preparing Price Lists and Marketing Materials	10
2.3. Sending shipments via express carriers or international post:.....	11
2.4. Preparing a Commercial Invoice	12
2.5. After the Show	13
III The Canadian Labor Code	14
3.1. Grievances.....	14
3.2. Unions	14
IV Patents & Intellectual Property	15
4.1. What are intellectual assets and how to protect them?	15
4.2. Patents, industrial designs, trademarks, copyright and trade secrets	15
V USMCA	16
VI Select Canadian Government Resources	19

I Establishing a presence in Canada

1.1. Introduction & key figures

Canada is one of the world's top destinations for business investment, with a well-educated workforce, a wealth of natural resources, and 14 free trade arrangements with the world's major economies. According to Invest Canada, in 2021 Canada’s annual foreign direct investments reached their highest levels in 15 years, with a yearly total of \$74.8 billion. This represents a 50% increase than the previous 11-year average FDI total.

The vast majority of Canada’s 38 million people live in the southern third of the country. English and French are Canada’s official languages, with French predominating in the province of Quebec, and English predominating elsewhere. The following cities are among Canada’s leading business centers and represent its strategic industries (source: Stikeman Elliott).

Metropolitan Area	Pop. ('000) ¹	Representative Industries
Toronto, Ontario (GTA)	6,815	Financial, Manufacturing, High Technology, Communications, Entertainment, Automotive, Biotech, Health
Montréal, Quebec	4,061	Financial, Petrochemical, Aerospace, Manufacturing, Health, Biotech and other High Technology, Pharmaceutical, Textiles
Vancouver, British Columbia	2,504	Financial, Forestry, Entertainment, High Technology, Transport
Calgary, Alberta	1,440	Energy, Financial, Agricultural, Transport, High Technology
Ottawa-Gatineau, Ontario-Quebec	1,332	High Technology, Manufacturing
Edmonton, Alberta	1,363	Energy, Manufacturing, Agricultural, Transport, Biotechnology
Winnipeg, Manitoba	793	Manufacturing, Agricultural, Financial, Transport, Textiles
Québec City, Quebec	806	Financial, Health, Transport
Hamilton, Ontario	771	Manufacturing, Health
Kitchener-Cambridge-Waterloo, Ontario	511	High Technology, Manufacturing
London, Ontario	506	Health, Manufacturing, Financial
Halifax, Nova Scotia	418	Transport, Financial, Energy

There are a number of reasons to choose Canada as a business destination:

- it has similar legal and business practices to the US;
- it offers the lowest tax rate on new business investment in the G7;
- it offers close proximity and easier access to the US market;
- it is considered to have one of the safest financial systems and one of the most transparent legislatures in the world.

The United States is Canada's most important commercial partner globally. Their two-way merchandise trade reached a value of \$224.8 billion in 2021. The United States is also Canada's largest investor, accounting for 47 percent of total foreign direct investment. Many US firms are incentivised to develop a presence in Canada, which contributes to growing bilateral economic relations. The US and Canada also benefit from strong partnerships in science, technology, and innovation. Joint collaborative and interdisciplinary programmes cover topics such as climate change, life sciences, green technologies, energy, and food and water security.

Moreover, the United States and Canada enjoy the world's most comprehensive trading relationship, which supports millions of jobs in each country, and enhances trade in goods and services both ways. For example, the USMCA, which replaced NAFTA in 2020, covers various areas aiming to improve worker protections, increase trade, produce new investments in vital industries, protect intellectual property rights, and much more. These standards reinforce and develop trade relationships in North America.

1.2. Establishing a business

a. Corporations

Once federally incorporated, a business becomes a separate legal entity, and as such, it can now operate under one unique name across Canada and have easier access to capital and lower tax rates. Furthermore, corporations present limited liability, unless they wind up amalgamate and give up their charter, or go bankrupt. If they go bankrupt, their stakeholders are not responsible for its debts.

The fastest and simplest way to submit an incorporation application and pay is through the [Online Filing Centre](#). Companies can also apply by email or mail using a PDF form (available upon request).

The first step to incorporating is deciding on the business name. It can be either a word name, made up of letters and symbols, or a numbered name (e.g. 12345678 Canada Incorporated). The second step is to establish the corporation structure. Basic incorporation is the option most commonly used for small, private business. This option provides the following:

- pre-determined articles of incorporation;
- one class of common shares;
- a maximum of 10 directors and
- an assigned, numbered corporate name.

Alternatively, companies can tailor their articles of incorporation to suit their specific business needs. When choosing the option Custom incorporation, they are required to provide:

- corporate name;
- share structure and any restrictions on share transfers;
- the corporation's number of directors;
- any restrictions for the business or business activities and
- any other provisions.

The third step is to establish the initial registered office address (where the company will receive documents and keep the official corporate records) and the first board of directors. This information is mandatory and will become public once the business is incorporated.

b. Branch Operations

Branch operations in Canada are an alternative to incorporation. For example, a non-Canadian corporation may register to carry on business in Ontario as a branch in the same manner as a corporation incorporated federally or in another province. Non-Canadian corporations with branch operations must appoint a local agent for the service of court documents.

A key distinction between operating through a subsidiary corporation and a branch is that a branch is not a separate legal entity and, as such, the non-Canadian corporation will be subject to liabilities incurred by the branch.

c. Partnerships

This is a less commonly utilized form of business organization in Canada but provides significant organizational flexibility. There are no citizenship requirements in the applicable partnership statutes. This form of organization does not generally provide the limited liability associated with corporations. In a “general partnership” all partners are subject to unlimited liability for the obligations of the partnership, while in a “limited partnership”, the liability of a partner is limited to the extent of his financial contribution.

d. Strategic Alliances

Foreign investors often favor a joint-venture with a Canadian party over the establishment of a wholly owned subsidiary. Joint ventures may be created by the establishment of a new business or by the acquisition of a partial interest in an existing Canadian business in co-operation with another entity. The best structure here is usually determined by evaluating the desired business relationship, the need for limited liability, and the tax circumstances of the proposed joint-venture partners. There are two types of joint-venture structure: a) Contractual for short-term relationships and b) Partnership for long-term relationships, frequently used for commercial or industrial joint-ventures among corporate partners.

1.3. Registering a business

a. GST/HST

The goods and services tax (GST) is a tax that applies to most supplies of goods and services made in Canada. The GST also applies to many supplies of real property (for example, land, buildings, and interests in such property) and intangible personal property such as trademarks, rights to use a patent, and digitized products downloaded from the internet and paid for individually.

Participating provinces have harmonized their provincial sales tax with the GST to implement a harmonized sales tax (HST) in those provinces. Generally, the HST applies to the same base of property (for example, goods and services) as the GST. In some participating provinces, there are point-of-sale rebates equivalent to the provincial part of the HST on certain designated items.

GST/HST registrants who make taxable supplies (other than zero-rated supplies) in the participating provinces collect tax at the applicable HST rate. On the taxable supplies they make in the rest of Canada, GST/HST registrants collect tax at the 5% GST rate (other than zero-rated supplies). The HST rate can vary from one participating province to another.

Determining whether a company is carrying on business in Canada is an important step in establishing whether or not it has to register for the GST/HST. Non-residents who carry on business in Canada must register for the GST/HST if they make taxable supplies (including zero-rated) in Canada and are not small suppliers, and also in the specific situations below:

- they make taxable supplies of admissions in Canada for a place of amusement, a seminar, an activity, or an event held in Canada, even if they are a small supplier;
- they sponsor (host) a convention in Canada and more than 25% of the delegates are residents of Canada, even if they are a small supplier;
- they are not a small supplier and solicit sales for books, newspapers, magazines, periodicals, or similar printed publications in Canada; or if they offer such goods for sale in Canada, either through an employee or agent, or by means of advertising directed at the Canadian market, and send the publications by mail or courier to the recipient at an address in Canada.

A sole proprietor or corporation is considered a small supplier and does not have to register if the total amount of all revenues (before expenses) from its worldwide taxable supplies from all its businesses and those of its associates is \$30,000 or less in any single calendar quarter and in the last four consecutive calendar quarters; or if the company is a public service body and the total amount of all revenues (before expenses) from its worldwide taxable supplies from all of the organization's activities and those of its associated is \$50,000 or less in any single calendar quarter and in the last four consecutive calendar quarters. A gross revenue threshold of \$250,000 also applies to charities and public institutions.

In determining the total amount of revenues from taxable supplies (including zero-rated supplies) of property and services made inside and outside Canada by a company and their associates, they should not include revenues from supplies of financial services, sales of capital property, and goodwill from the sale of a business.

If a business is registered for the GST, it is also registered for the HST. Companies, corporations, and partnerships register for the GST/HST as single entities, while branches and divisions cannot usually register separately.

b. Business number

The business number (BN) provides businesses with one number that applies to Canada's four main business accounts: corporation income tax, payroll, GST/HST, and import-export. The BN will be the business identification for all dealings with the Canada Revenue Agency.

If a company has to register for the GST/HST, or chooses to do so voluntarily, it must contact a tax services office to apply for a BN. Businesses are required to complete Form RC1 - Request for a business number and certain program accounts. Companies can use Business Registration Online (BRO) to get a business number and to register for one or more of the most common Canada Revenue Agency (CRA) program accounts.

Before registering, companies need to know the following information:

- where their main office will be located;
- which other provinces and territories they plan to operate in;
- the proposed business name, following the instructions that can be found [here](#);
- which type of business that best suits their needs: sole proprietorship, partnership, corporation, or co-operative.

Depending on the business type there will be different registration requirements. For example, to register as a corporation, companies need to: a) obtain their articles of incorporation through federal or provincial/territorial incorporation; b) get a federal business number and Corporation income tax account from the Canada Revenue Agency; c) register as an extra-provincial or extra-territorial corporation in all other Canadian jurisdictions where they plan to do business, and d) apply for any required permits and licences.

To register as a sole proprietor or partnership, companies only need to: a) register their business with the provinces and territories where they plan to do business; b) get a federal business number and tax accounts, and c) apply for any required permits and licences.

In Quebec, Revenu Québec generally administers the GST/HST. If the business is physically located in Quebec, the company has to file their returns with Revenu Québec using its forms. For more information, see the Revenu Québec publication IN-203-V, General Information Concerning the QST and the GST/HST, available at Revenu Québec, or call 1-800-567-4692.

1.4. Permits and licences

In Canada, each province has its own rules and regulations set in place as to which businesses need licensure. The requirements for each permit vary among provinces, and even local governments within the same province can require different licences to operate in that town or municipality.

Because of that, the Government of Canada created a permits search tool – BizPal (Business Permit and Licence) – that shows companies what is required by all three levels of government – federal, provincial and municipal – for their business to operate legally within Canada.

This platform can be found at <https://services.bizpal-perle.ca/> and allows a personalized search based on location, industry, and business activities. Based on the selection, the BizPal service generates a list of permits and licences from all levels of government, along with basic supporting information. Links to government sites and applications online are also provided.

The most common business licences are:

- General business licence;
- DBA (Doing Business As) licence;
- Sales tax permit;
- Zoning permit;
- Home occupation permit;

- Health permit;
- Environmental permit;
- Police and fire permit and
- A signage permit.

If the licences and permits needed are issued federally, the company can visit the Government of Canada's website, use the Permits and Licence Search mentioned above, or call 1-888-576-4444. If the licences and permits are issued provincially, the company should, in addition, visit the city hall or municipal office.

1.5. Foreign Investment

a. Investment Canada Act (ICA)

In order to encourage, facilitate, and monitor the levels of foreign investment in Canada, the federal government enacted the Investment Canada Act. It monitors the establishment of new businesses and acquisition of existing businesses by non-Canadians. Under the ICA, most foreign investment transactions, except for transactions that fall within the categories of reviewable transactions, are not subject to prior review or approval and must simply be notified to Industry Canada's Investment Review Division.

Notifiable Transactions

New business: a non-Canadian establishing a new business in Canada must file a form of notification with Industry Canada within 30 days of the commencement of the business. In most cases, this will be a simple procedure.

Acquisition of Control: prior to or within 30 days of the closing of a transaction, notification is required for the acquisition of a Canadian business by a non-Canadian, with the exception of reviewable transactions described below, which are deemed "significant" for either the size of the transaction or the nature of the business.

Reviewable Transactions

Significant transactions: direct acquisitions of "significant" Canadian businesses by a non-Canadian are reviewable. Non-Canadian investors whose acquisitions are subject to review must satisfy the Canadian Minister of Industry that the transaction is of "net benefit" to Canada.

Cultural business: the acquisition of a Canadian business that is engaged in "cultural businesses" is similarly subject to lower financial thresholds. "Cultural businesses" include businesses carrying on the publication or sale of: books, films, music recordings, and music and radio or television broadcasting. Foreign ownership restrictions apply in a variety of industry sectors under other laws and policies, including uranium, financial services, transportation, broadcasting, and telecommunications. The review and approval of all investments relating to cultural industries is the responsibility of the Minister of Canadian Heritage. All the other investments are the responsibility of the Minister of Industry.

b. Investment attraction agencies

Canada is organized on the principle of federalism, with governmental powers divided between the federal and provincial governments. The Constitution Act details which level of government will exercise legislative, executive, and/or judicial powers with respect to a given matter. Business regulation is one matter where jurisdiction is shared: the federal government has jurisdiction over “trade and commerce”, while the provincial governments have jurisdiction over “property and civil rights”.

Therefore, business support information is produced and shared by various sources across jurisdictions in Canada, including law firms and foreign investment agencies. Invest in Canada is Canada’s global investment attraction and promotion agency, providing customized services to encourage global investment and spur job growth. They are the foreign investor’s primary point of contact and assist with information and advice regarding industry-specific regulatory environments.

All main business centres have their own investment attraction agency:

- [Toronto Global](#): Investment attraction agency for establishing a presence in Toronto;
- [Establishing a Business in Ontario](#): Information about Ontario's economy and doing business in the province;
- [Trade and Invest British Columbia](#): Investment attraction agency for establishing a presence in British Columbia;
- [Vancouver Economic Commission](#): Investment attraction agency for establishing a presence in Vancouver;
- [Alberta](#): Business and industry information for operating a business in Alberta;
- [Montréal International](#): Investment attraction agency for establishing a presence in Montréal;
- [Innovation, Science and Economic Development Canada](#): Information business and industry, incorporating federally, R&D incentives, permits, licences, regulation, etc.

1.6. Business support and financing

From talent attraction to R&D and capital investment facilitation, Canada offers federal and provincial incentives and tax credit programs for new business ventures, in the form of loans and grants. These programs change based on the funding available and on the needs of small business owners in each province. Invest Canada highlights the following monetary programs:

a. Scientific Research and Experimental Development

Companies of any size that invest in research and development in Canada can take advantage of this incentive program, Canada’s largest in R&D. Types of SR&ED tax incentives include basic research, applied research, and experimental development. They can come in two forms: income tax deduction or investment tax credit, which may be applied against income taxes payable in the current year, in a prior year, or may be carried forward to a future year. In some cases, the credit may be refundable. This program has an annual impact of CAD 3 billion in tax incentives, with over 20,000 applicants.

Foreign companies can apply for the Canadian SR&ED tax incentives indirectly by forming a Canadian subsidiary company to perform eligible R&D work in Canada for itself or on a contractual basis on behalf

of the parent company. In this way the Canadian subsidiary applies for the SR&ED tax incentives where they may deduct eligible expenditures and claim a 15% non-refundable tax credit. A non-refundable tax credit may be used to reduce federal taxes payable in the current year, in the previous three years, or carried forward to future years.

b. Accelerated investment incentive (All)

Introduced in Canada’s 2018 federal fall economic statement, this incentive program provides an enhanced capital cost allowance (CCA) on equipment purchases. Full expensing in the first year for manufacturing and processing (M&P) and clean energy equipment purchases was also introduced as part of the All.

All allows investors to write off a larger share of the costs of newly acquired capital assets in the year the investment is made or the asset becomes available for use. This measure involves:

- a 50% increase in the available CCA deduction for property* acquired after November 20, 2018 that becomes available for use before 2024, and
- the suspension of the existing CCA half-year rule in respect of property acquired after November 20, 2018 that becomes available for use before 2028.

This incentive applies to property for which CCA is calculated on a declining-balance basis, as well as for classes of property with straight-line depreciation or classes for which depreciation is based on unit of use. Property that becomes available for use after 2027 is not eligible for the Accelerated Investment Incentive.

c. Strategic Innovation Fund (SIF)

This incentive program supports Canada as a top destination for businesses to invest through five Streams:

Stream 1	Encourage R&D that will accelerate technology transfer and commercialization of innovative products, processes, and services
Stream 2	Facilitate the growth and expansion of firms in Canada
Stream 3	Attract and retain large scale investments to Canada
Stream 4	Advance industrial research, development, and technology demonstration through collaboration between the private sector, researchers, and non-profit organizations
Stream 5	Support large-scale, national innovation ecosystems through high impact collaborations across Canada.

Eligibility respects the following requirements:

Streams 1, 2, and 3	For-profit corporations incorporated pursuant to the laws of Canada and proposing to carry on business in Canada.
Stream 4	Consortiums that may include Canadian universities, colleges, research institutes, for-profit corporation, and/or not-for-profit entities. The Lead Applicant must be incorporated pursuant to the laws of Canada, and carry on business in Canada. Networks – the Lead Applicant must be a not-for-profit organization incorporated in Canada.

Stream 5:	Networks – the Lead Applicant must be a non-profit or for-profit organization incorporated in Canada.
-----------	---

SIF projects are assessed based on the potential benefits to Canada, including: the creation and commercialization of new intellectual property; development of new and improved products, services, or processes; and collaboration between post-secondary institutions, NGOs, indigenous communities and other private sector firms. Eligible costs are limited to non-recurring costs that are specifically related to the project, including: direct labour, overhead (program limits apply), subcontracts and consultants, and direct materials and equipment.

d. Pan-Canadian Artificial Intelligence Strategy

The artificial intelligence (AI) and machine learning revolution is well underway, and Canada is at its forefront. From top-ranked educational institutions and market-leading tech companies to world-renowned researchers, Canada’s AI ecosystems (Alberta, Montreal, and Toronto) are leading global AI developments.

To continue to foster this growth and maintain its leadership position, Canada launched in 2017 the \$125M Pan-Canadian Artificial Intelligence Strategy—making it the first country to release a national AI strategy. The program prioritizes increasing the number of highly-skilled researchers and graduates in this field, enhancing the collaboration between the public and private sector in terms of research and AI development. Technology companies that choose to establish their roots in Canada are offered a growing AI talent pool, with multiple opportunities of partnership with universities and leading research centres.

II Preparing for a Trade Show in Canada

2.1. Useful research before going to a trade show

Investigate the market

A wealth of information about Canada’s industry and business is available through the internet. Be sure to check the websites of industry associations, retailers, and competitors.

Develop a competitor summary

Know the pricing and features of your competitors’ products. Compare and identify benefits that your products may offer to Canadian buyers.

Determine average price points

Be aware of the different weights and measures used in Canada, as well as the quantities that products are typically sold in. Compare prices and products to establish roughly what price points make sense for your products.

Calculate wholesale prices, if applicable

Retailer mark-ups usually vary from 40 percent to 150 percent depending on the target market and/or the industry. A good rule of thumb is to estimate mark-ups initially using US standards.

Identify duty rates

The Harmonized Tariff System of Canada is similar to other countries. Meanwhile, it presents some specificities and confirming your products' codes, as well as duty rates, is strongly suggested, even for companies with export experience. If you are unsure about duty rates, request the assistance of a local freight carrier or contact a Canadian-based customs broker. (For a listing of the Harmonized Tariff Schedule of Canada, visit: www.cbsa-asfc.gc.ca/).

Select a Canadian port of entry

Identify the port that is closest to the region you intend to ship to. Ports of entry include both airports and seaports, and there are over 250 ports of entry in Canada. Larger ports typically have more frequent shipping times and less expensive freight costs. (For a listing of all Canada ports of entry visit www.cbsa-asfc.gc.ca/)

Develop several shipment sizes by weight and dimension

It is difficult to predict quantities that will be shipped on a regular basis, so start with a few scenarios. For example, a best-case scenario might be to ship one full 20ft container, while a worst-case scenario might be to ship one pallet or loose cartons.

Request detailed international freight quotes

Request quotes based on the shipping scenarios you develop and get them from more than one freight carrier. Quotes should include import entry fees and duty. Express carriers such as Purolator, DHL, or UPS International may offer competitive rates for smaller-sized shipments.

Language specificities

Bear in mind that Canada has two official languages, English and French, and that all of the mandatory information detailed below must be in both of Canada's official languages. For food products, you must include: Common name; Net quantity declaration; Dealer name and address; List of ingredients (including food allergens); Nutrition Facts table; and Durable life date. For non-food products (i.e., cosmetics, appliances, cleaning products, etc.), you must include: Product Identity Product Net Quantity; Dealer's Name; and Principal Place of Business.

2.2. Preparing Price Lists and Marketing Materials

Getting Marketing Materials and Samples to the Trade Show

Ship early

Getting the shipment into port is only part of the process. One of the most common mistakes made by companies new to the Canadian market is not allowing enough time for the Canada Border Services Agency (CBSA) entry process. The CBSA entry process can take two to three weeks for sea freight, and up to five business days for air freight. If CBSA want to carry out additional examinations or has questions about the products, these delays can become costly. It is far better to have samples arrive early than for them to arrive late to a trade show.

What is a commercial sample?

According to CBSA, the definition of a 'sample' is "an article which is imported for the bona fide purpose of taking orders for similar merchandise". Under a standard entry, samples may be consumed in the course of soliciting orders (for example, food products may be tasted). However, samples cannot be on display for ordering and then used to fill an order. For more information, visit: www.cbsa-asfc.gc.ca/.

Bringing samples with you on the plane

The easiest way to get samples to a trade show is to bring them with you as part of your luggage, particularly if the samples are light and small to pack:

- ✓ There are simple rules for travellers bringing commercial samples into Canada as part of their baggage. To do it properly, have a commercial invoice that lists all of the items and declare the samples on the documents you complete for entry into Canada.
- ✓ Samples originating in any country that are representative of a particular category of goods that have been produced, or an article for which production is contemplated, may be imported into Canada customs duty-free under tariff item 9991.00.00.

Goods classified under tariff items 9990.00.00 and 9991.00.00 may be entitled to GST/HST relief under the Samples of Negligible Value Remission Order.

For more information see: The Memorandum D8-2-8, Samples of Negligible Value (Tariff Items 9990.00.00 and 9991.00.00)

✓ Another option is to use an ATA Carnet. Fashion and jewellery companies often find this is the best option if they only have samples that they cannot mark or otherwise destroy to make unsuitable for sale, as required by CBP. The ATA Carnet is an international customs document which allows the temporary importation of commercial samples, professional equipment, or goods going to either a trade show or an exhibition. The ATA Carnet is used in many countries throughout the world (including the US and Canada). Carnets are valid for a limited period (one year from the date of issue). A carnet cannot be accepted once it has expired. If goods are being re-exported after the expiry date, duty and taxes apply and are non-refundable.

2.3. Sending shipments via express carriers or international post:

- ✓ Sending samples via express carrier or international post can be one of the most cost-effective ways to send smaller shipments to Canada.
- ✓ When sending samples directly to a trade show via this method, the importer of record will be the co-signee listed on the package. In other words, if shipping directly to a trade show, the co-signee will become responsible for ensuring that the shipment complies with all domestic customs and legal requirements for the trade show. Be sure to investigate if the show can receive international packages (ie imports).

If the trade show can handle imports, then be sure to confirm how and where to ship to in order to avoid costly delays. Some Canadian trade show organisers are not able to act as an importer, but they may have established a third party to act as an importer on their behalf.

- ✓ Acting as your own importer may or may not be an option. CSBA may require the importer to provide a Federal Business Number (BN) or a specific registration or import license. CBSA requirements depend on the items being imported. For example, in the case of food products the importer must be registered with the Canadian Food Inspection Agency (CFIA). Investigate import requirements for your products thoroughly.
- ✓ A common mistake is sending gifts such as hats, t-shirts, food, or other giveaway items with trade show samples. Very often gift items are the cause of costly delays. If intending to offer giveaway items, the best way to bring them into Canada is to carry them in your luggage. Do not ship them with your samples. Every item sent in a shipment must be declared on the commercial invoice and, if the items are regulated, it can delay the entire shipment.

Shipping samples via a freight carrier:

- ✓ This is the most common way to send larger shipments or high value shipments. The freight carrier, usually based in the port of dispatch, will organise the freight, the dispatch, and the delivery into port. If possible, work with a freight carrier who is experienced in shipping to the Canadian market.
- ✓ The carrier may also offer CBSA clearance and delivery from port of entry to the final destination. Through their trade networks, the carrier will often have a relationship with CBSA brokers.
- ✓ The carrier provides the CBSA broker with the shipping documents (airwaybill) and the commercial invoice and packing slip. The CBSA broker then clears the shipment on behalf of the importer and, depending upon the terms, will invoice their services via the carrier.
- ✓ If sending samples by sea freight, additional security-related information about the shipment will be required prior to dispatch. Be sure that the carrier and the CBSA broker are taking care of all the necessary documents to meet CBSA requirements.
- ✓ Ask the freight forwarder to contact their CBSA brokers in advance to determine if there will be any delays with a shipment. Involving the CBSA broker before a shipment has departed can often help avoid problems or delays once the items are in a Canadian port.

2.4. Preparing a Commercial Invoice

Value All Items

Each item listed on the commercial invoice must have a value assigned to it, including gift giveaways and marketing materials. Items of no commercial value should be assigned a nominal value (e.g. 0.01 cents per catalogue). Be sure to state the currency used on the commercial invoice and sign the invoice.

List All Items

All items in the shipment must be listed on the commercial invoice. This includes promotional materials and even items such as hammers (used to build a trade show booth). The commercial invoice cannot state generalisations such as “tools” or “clothing”.

Describe Each Item in Detail

More shipments are held in Canadian ports due to an inaccurate ‘Description of Goods’ than due to any other cause. CBSA requires a complete and accurate description of the products contained in each import shipment. Here are some specifics:

General Information

- Describe the type of item: bolt, cable, pipe, automobile wiper blades.
- Describe what the item is made of: plastic, steel, aluminium, glass.
- Describe what the item is used for: for sewing machines, for air compressors, for cars.

Food/Ingestible Products

- Food exporters must be registered with the CFIA in order to send samples or commercial products to Canada. Registration with the CFIA is free and can be done via their website: www.inspection.gc.ca.
- In addition, importers are required to have a Safe Food for Canadians (SFC) licence to import food into Canada.

Textile Products and Promotional Items

- Specify the type of article: vests, trousers, blouse, towel. (Be careful to avoid colloquialisms.)
- Describe the end user: men’s, women’s, children’s, unisex.
- Detail the fabric content: 100% cotton, 50% cotton/50% polyester, wool.
- Include the manufacturing process: woven, knitted.
- Provide the name and address of the manufacturer or his ID (MID) by item for commercial products.

2.5. After the Show

What to do with your samples

Use the freight/carrier services of the trade show organisers

This is usually the easiest and most efficient way to ship samples back home or to a Canadian location. Be sure to pack up the samples carefully to avoid damages and to keep a packing slip by the carton, as well as to clearly mark and label the carton with carton number and the final destination address. Commercial invoices for shipping out of Canada back into the US will also be required.

Take them back with you as part of your luggage

The least costly solution is to carry the samples back to the US with you either as part of your baggage or as excess baggage. Prepare a commercial invoice for US Customs just in case there are concerns when you are proceeding through US Customs on arrival.

Take the samples to a UPS or Federal Express retail store located outside of the trade show

The costs may be less to ship via these locations, as it avoids trade show fee add-ons. Be sure to keep all documentation, as well as the name and contact details for the location that has been used for tracking purposes. Commercial invoices for shipping back into the US will also be required using this method of shipping.

III The Canadian Labor Code

In Canada, labor rights and responsibilities of about 12,000 businesses and 820,000 of their employees are defined by the [Canada Labour Code](#). It generally covers the following topics:

- Industrial relations: certification of unions, labor-management relations, collective bargaining, and unfair labor practices;
- Workplace Health and Safety;
- Employment Standards, including equity and human rights, general holidays, annual vacations, working hours, unjust dismissals, minimum wage, layoff procedures, and severance pay.

Interns and foreign workers are protected by full labor standards protections and occupational health and safety protections. In some provinces, requirements for Canadian experience may be viewed as discriminatory.

It is important to understand your obligations and responsibilities as an employer. [This guide](#) presents all requirements regarding the topics mentioned above. Following these rules will help ensure that your employees are treated fairly and kept safe while at work.

3.1. Grievances

The provisions of the Code offer a way for employees to recover unpaid wages and ensure other labor standards are upheld in their workplace. Grievances can be past practice or violations of the contract, the law, or employees' rights. They are classified according to where they come from, how they arise, and who they affect: individuals, groups, policies or unions.

Employees have six months from the day on which the subject matter of their complaint arose to file a complaint using the Labor Program complaint form from the Service Canada website. The records presented should cover the period of 24 months prior to the complaint. Once completed, both the form and supporting documents must be submitted to the nearest Labor Program office.

If the employee is unionized and covered by a collective agreement which provides for a grievance procedure, they must contact their union representative to discuss their complaint.

3.2. Unions

The process for joining a union, negotiating new contracts, basic rights like vacation pay, discipline, and severance for non-union employees are set out in labor legislation. Federal government workers are mostly covered by the Public Service Labor Relations Act, while those who work for private companies are covered by their provincial or territorial legislation.

The [Canadian Labour Congress](#) is the largest labor organization in Canada, bringing together dozens of national and international unions, provincial and territorial federations of labor, and community-based labor councils to represent more than 3 million workers across the country.

Canada is currently modernizing its federal labor standards to better protect workers and help employers recruit and retain staff. The planned changes aim to improve employee eligibility for entitlements, improve work-life balance, ensure fair treatment and compensation for employees in precarious work, ensure sufficient notice and compensation when jobs are terminated, and improve administration of labor standards.

IV Patents & Intellectual Property

4.1. What are intellectual assets and how to protect them?

Intellectual assets, also called "intangible" assets, include inventions, new technologies, new brands, original software, novel designs, unique processes, and much more. These assets have value in the marketplace very much like tangible assets, or assets that you can hold in your hand.

In today's knowledge-based economy, it is crucial that businesses use their intellectual assets strategically as they run their operations. If they are protected, they can give businesses a competitive advantage over other players in the market. Intellectual assets have the potential to protect businesses as they innovate and grow.

In Canada, businesses can protect their intellectual property by submitting applications for a patent, a trademark, an industrial design, or with the registration of a copyright—whichever applies best to the situation. Visit the Canadian Intellectual Property Office to learn more on how to protect intellectual assets: <https://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/home>

4.2. Patents, industrial designs, trademarks, copyright, and trade secrets

Patents give you exclusive rights to your innovations

A patent is granted by the government. It gives a business the right to exclude others from making, using, or selling its invention. A Canadian patent applies within Canada for 20 years from the date the application is filed. The patent application is available to the public 18 months after it is filed. Patents cover new inventions (process, machine, product, composition of matter) or any new and useful improvement to an existing invention. [What is a patent?](#)

Industrial designs relate to the visual appearance of a product

An industrial design is the visual features of shape, configuration, pattern or ornament, or any combination of these features, applied to a finished article. For example, the shape of a table or the shape and decoration of a spoon may be industrial designs. An industrial design must have features that appeal to the eye. To be eligible for registration, the design must be original. [What is an industrial design?](#)

Trademarks distinguish your product or service

A trademark may be one or a combination of words, sounds, or designs used to distinguish the goods or services of one person or organization from those of others in the marketplace. [What is a trademark?](#)

Copyright gives you the right to copy a work

In general, a copyright is the sole right to produce or reproduce a work or a substantial part of it, in any form. It includes the right to perform the work or any substantial part of it or, in the case of a lecture, to deliver it. If the work is unpublished, copyright includes the right to publish the work or any substantial part of it. Copyright provides protection for literary, artistic, dramatic or musical works (including computer programs), and other subject matter known as performer's performances, sound recordings, and communication signals.

Trade secrets include your valuable business information

A trade secret includes any valuable business information that derives its value from the secrecy. Trade secrets include various assets such as sales methods, distribution methods, customer profiles, client lists, supplier lists, product ingredients and formulas, etc.

V USMCA

On November 30, 2018, Canada, the United States, and Mexico signed an agreement to replace the North American Free Trade Agreement (NAFTA) with the Canada-United States-Mexico Agreement (USMCA). This new agreement will reinforce the strong economic ties between the three countries and support well-paying middle-class jobs for Canadians. Subsequently, on December 10, 2019, Canada, the United States, and Mexico agreed to update certain elements of USMCA to improve the final outcome and clear the path toward ratification and implementation of the agreement in all three countries.

USMCA will maintain the tariff-free market access from NAFTA, and includes updates and new chapters to address modern-day trade challenges and opportunities. Since negotiations began in August 2017, Canada engaged constructively and pragmatically with our NAFTA partners to achieve a good deal for Canadians.

The agreement provides key outcomes for Canadian businesses, workers, and communities in areas such as labour, environment, automotive trade, dispute resolution, culture, energy, and agriculture and agri-food. Importantly, USMCA also includes language on gender and Indigenous peoples' rights.

Preserving free trade

NAFTA eliminated over 98% of tariffs in North America, creating one of the largest free trade zones in the world. Under the USMCA, tariffs that were at zero will remain at zero, and there will be no new tariffs or non-tariff barriers. In addition, U.S. producers will have new opportunities in some agricultural markets, like dairy. Overall, the USMCA will help strengthen existing North American supply chains.

Expanding north American competitiveness

The USMCA creates additional incentives to build and source goods and materials in the United States, Canada, and Mexico. For example, new auto rules of origin will require more North American content in vehicles, encouraging production and sourcing in North America. This outcome keeps the automotive industry regionally integrated and stands to result in higher wages and better working conditions.

Facilitating trade in goods

NAFTA eliminated virtually all tariffs between Canada, the U.S. and Mexico, with very few exceptions. USMCA maintains these benefits and ensures that the vast majority of North American trade will continue to be duty-free. Additionally, a new chapter on customs administration and trade facilitation standardizes and modernizes customs procedures throughout North America to facilitate the free-flow of goods. There are also important improvements to disciplines on technical barriers to trade that will make it easier for Canadian businesses to export goods within the USMCA region.

As a result of this agreement, Canada agreed to have *de minimis* thresholds for express courier import shipments of C\$150 for duties and C\$40 for taxes at the point or time of importation.

Dispute settlement

When it comes to disagreements, USMCA builds on and improves the original NAFTA outcome by:

- preserving the use of binational panels to resolve disputes on anti-dumping and countervailing duty matters, which is critically important to preserving market access outcomes; and
- improving the state-to-state dispute settlement process of NAFTA to ensure that arbitral panels are formed to hear disputes and that the process is carried out in a transparent and expedient manner.

Labour

USMCA includes a comprehensive chapter on labour, which is subject to dispute settlement. This chapter aims to level the playing field on labour standards and working conditions in the USMCA region by ensuring parties do not lower their levels of protection to attract trade or investment. USMCA also contains commitments to ensure national laws and policies provide protection for fundamental principles and rights at work. These include the right to freedom of association and collective bargaining, a prohibition on importing goods made from forced labour, and binding obligations on the rights of migrant workers. The chapter also includes an enforceable obligation to address violence against workers, including single instances of violence, or threats thereof.

To address labour violations related to collective bargaining and freedom of association in a timely manner, the agreement also includes innovative mechanisms for rapid response between Canada and Mexico and between the United States and Mexico. These enforcement mechanisms allow for the rapid deployment of a three-member panel of labour experts to a facility to ensure that national labour law is being respected.

Intellectual property

Parties agreed to an updated, comprehensive chapter on intellectual property (IP), with obligations on copyright and related rights, trademarks, geographical indications, industrial designs, patents, data protection for pharmaceutical and agricultural chemical products, trade secrets, and IP rights enforcement.

- The modernized agreement will require changes to Canada’s current IP legal and policy framework in certain areas, such as requiring parties to provide a general term of copyright protection of “life plus 70 years” for works of authorship (Canada currently has a term of “life plus 50 years”)
- The agreement also requires parties to provide patent term adjustment to compensate patent applicants for “unreasonable” delays in the processing of patent applications.

Canada has transition periods of 2.5 years and 4.5 years, respectively, following the entry into force of the agreement to implement these obligations.

The new agreement includes provisions on Internet service provider liability to address online infringement, which enable Canada to maintain its current “notice-and-notice” regime. Under the December 2019 Protocol amending the USMCA, parties agreed to amend or delete certain provisions dealing with patents and pharmaceutical IP. Notably, parties agreed to remove the obligation to provide 10 years of data protection for biologics, meaning USMCA will not require Canada to make changes to its domestic regime in this area.

Review process & ongoing modernization

USMCA includes a requirement for a formal review of the agreement at least every six years after entry into force. This new review process will help ensure the agreement remains relevant, effective and beneficial for North American workers. It will also help address issues before they become major challenges and provides predictability and stability for consumers and businesses. While establishing that the agreement will terminate 16 years after entry into force, the Parties can agree to extend the agreement for a further 16 years after each regular review.

VI Select Canadian Government Resources

All Canada federal agencies

www.canada.ca/en/government/dept.html

Health Canada

www.canada.ca/en/health-canada.html

In charge of consumer's protection.

Canada Border Services Agency (CBSA)

www.cbp.gov

Regulates and facilitates international trade, collecting import duties, and enforcing Canada's regulations, including trade, customs, and immigration.

Canadian Food Inspection Agency (CFIA)

www.inspection.gc.ca/

Dedicated to safeguarding food, animals and plants, which enhances the health and well-being of Canada's people, environment, and economy.

Canada Revenue Agency (CRA)

www.canada.ca/en/revenue-agency

Responsible for tax collection and tax law enforcement.

Canada Labor Program (EDSC)

<https://www.canada.ca/en/employment-social-development.html>

Part of Employment and Social Development Canada, the Labour Program is responsible for protecting the rights and well-being of workers and employers in federally regulated workplaces.

Innovation, Science and Economic Development Canada

www.ic.gc.ca/eic/site/icgc.nsf/

Works with Canadians in all areas of the economy and in all parts of the country to improve conditions for investment and enhance Canada's innovation performance.

Canadian Centre for Occupational Health and Safety

www.ccohs.ca/

Assures safe and healthful working conditions by setting and enforcing standards and by providing training, outreach, education, and assistance.

Trade Commissioner Service

www.tradecommissioner.gc.ca

Helps Canadian businesses, organizations, and educational institutions succeed and innovate in global markets, and helps bring international investment into Canadian communities.

The Canadian Intellectual Property Office (CIPO)

<http://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf>

The special operating agency of Innovation, Science and Economic Development Canada. It delivers intellectual property (IP) services in Canada and educates Canadians on how to use IP more effectively.