



Canadian Trade Law Predictions for 2016

By Cyndee Todgham Cherniak on January 1st, 2016

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Greeting words around
2016 year

I do not know for certain what will happen in 2016 in terms of Canadian trade issues. However, I can make a few educated predictions:

1. **Canada will continue its economic sanctions against Russia** and may add new designated persons in 2016. The Trudeau Government may be less willing to expand economic sanctions into new commercial areas. Many Canadian businesses are active in Russia. It is not the time to put Canadian business interests at risk. It is also not the time for Canada to lessen pressure on Russia. Foreign Affairs Minister Dion and Prime Minister Trudeau have spoken publicly about Canada's support for Ukraine.
2. **Canada will lessen its economic sanctions against Iran.** The Trudeau Government has indicated that it would like to reopen diplomatic ties with Iran. One step in this process will likely be to lessen Canada's harsh economic sanctions imposed against Iran by the Harper Government. This does not mean that the Harper Government's imposing of economic sanctions was wrong. It is likely that the Trudeau Government is willing to turn the page.
3. **Canada will end its economic sanctions against Burma/Myanmar.** In 2015, there was significant democratic reform in Burma/Myanmar. Canada's economic sanctions against Burma/Myanmar have succeeded in encouraging regime change. It is likely that Foreign Minister Dion and Prime Minister Trudeau will decide to reward the democratic reforms with the elimination of sanctions.
4. **The text of the Canada-Ukraine Free Trade Agreement will be released.** The Canada-Ukraine Free Trade Agreement is not as bold as the Trans-Pacific Partnership Agreement (it does not cover services, investment or mobility of persons). Simply put, the Canada-Ukraine Free Trade Agreement is a Trade in Goods Agreement. The details have not yet been released to the public. It will need to be ratified before it can come into effect.
5. **The Trans-Pacific Partnership Agreement (TPP) will not be ratified in 2016.** The TPP will continue to proceed with legal scrubbing in Canada and other member countries. With the US election in 2016, the implementation process

will slow. There will be talk about reopening aspects of the TPP agreement. 2016 will highlight the good and the bad in the TPP agreement.

6. The Canada Border Services Agency will provide more information via the ATIP (Access to Information and Privacy) process. The Trudeau Government has spoken about new transparency. One step in the transparency upgrade will be to release more information to the public pursuant to specific requests. There will be less information held back on the grounds that it may embarrass the government. The Trudeau Government and federal bureaucrats will be willing to share behind the scenes information about decisions made under the Harper Government.

7. Canada will increase Administrative Monetary Penalties (AMPs) for customs, import and export infractions. This is easy money for the Trudeau Government. There is little resistance to penalties for non-compliance with laws. The United States has been issuing significant penalties for customs, FCPA and export controls/economic sanctions infractions.

8. Anti-dumping/Countervailing Duty cases will increase. There will be more than 5 new AD/CVD cases in Canada in 2016. In 2015, there were 3 new cases commenced (and one case started in 2014 was completed). In 2015, many new investigations and many expiry reviews and reinvestigations involved steel products. Some of the 2016 cases will involve steel products – because the CBSA is imposing significant duties and the Canadian International Trade Tribunal is making injury findings. There will be a few surprises in the consumer products and industrial products areas. Canadian manufacturers are experiencing difficult times with the fall of the Canadian dollar. While this is good for the export market, it is not good for imported goods (inputs in Canadian manufacturing).

9. The RCMP will increase enforcement and prosecution of *Corruption of Foreign Public Officials Act* cases. Canada is taking corruption seriously. In recent years, the *Corruption of Foreign Public Officials Act* has been amended to include record-keeping provisions. There are more tools available to the Royal Canadian Mounted Police and the Attorney General of Canada to pursue Canadians and Canadian companies that bribe foreign public officials. While there are a number of cases being pursued by the RCMP, few are publicly discussed. This will change in 2016.

10. Canada will increase enforcement of controlled goods exports. In November 2015, the CBSA announced a 6 month grace period for voluntary disclosures of unreported exported goods – see “Canada is Concerned About Unreported Exported Goods AND Grants Limited 6 Month Amnesty“. When the grace period ends on June 1, 2016, it is likely that the CBSA will pursue exporters who did not come forward. While the 6 month grace period is open for goods transshipped through the United States, it is not available for goods exported to countries other than the United States. It is likely that the CBSA will learn from voluntary disclosures and look more closely at exports to other countries not covered by the grace period.

There will be a number of compliance issues for Canadian companies to consider in 2016. The Government of Canada needs money and some of the low hanging fruit is where there is non-compliance with existing laws.

Tags: "Corruption of Foreign Public Officials Act", Access to Information and Privacy, Administrative Monetary Penalties, AMPs, anti-dumping, antidumping, ATIP, Canada Border Services Agency, CBSA, countervailing duty, Customs, economic sanctions, export, import

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