

Final Environmental Assessment of the Canada-Peru Foreign Investment Protection Agreement (FIPA)

This report outlines the results of the Final Environmental Assessment (EA) of the Canada- Peru Foreign Investment Protection Agreement (FIPA) negotiations. Negotiations for the Canada-Peru FIPA were concluded successfully on November 14, 2006. The negotiators used Canada's new FIPA model (<http://www.dfait-maeci.gc.ca/tna-nac/documents/2004-FIPA-model-en.pdf>) as the basis for the negotiations. The full text of the concluded agreement is available at: <http://www.dfait-maeci.gc.ca/tna-nac/documents/Canada-Peru10nov06-en.pdf>.

FIPA negotiations are subject to the 2001 *Framework for Conducting Environmental Assessment of Trade Negotiations*. The process focuses on the likely economic effects of the trade and investment negotiations and their likely related environmental impacts in Canada. The process involves three phases – the Initial EA, Draft EA and Final EA. The middle phase, also known as the Draft EA, is not undertaken if the FIPA is not expected to generate significant economic effects and environmental impacts in Canada. Public consultations are an integral part of the EA and are undertaken throughout the process.

An Initial EA of the Canada-Peru FIPA was completed in September 2005. This report is available at: <http://www.dfait-maeci.gc.ca/tna-nac/documents/FIPA2005-en.pdf>. The Government of Canada opened the Initial EA for public comments from September 16 to October 7, 2005. No public comments were received. The report was also discussed at a public workshop on EA of FIPAs which took place on December, 1, 2005 on the margins of the Commission for Environmental Cooperation's Third North American Symposium on Assessing the Environmental Effects of Trade: Investment, Growth and the Environment.

A Draft EA was not carried out, as the economic effects and environmental impacts in Canada of the Canada-Peru FIPA are expected to be insignificant. The purpose of the Final EA is to document the outcome of the negotiations in relation to the EA process, i.e. to confirm the findings of the previous analysis based on the concluded negotiation.

The findings of this Initial EA were communicated to Canada's lead negotiator and were made a part of the negotiation strategy. These findings indicated that significant changes to investment flows into Canada were not expected as a result of these negotiations.

The results of the Final EA of the Canada-Peru FIPA negotiations confirm the findings of the Initial EA. The economic effects and environmental impacts of the Canada-Peru FIPA are expected to be minimal to non-existent in Canada.

No new issues arose during the latter stages of the Canada-Peru FIPA negotiations with respect to potential environmental impacts in Canada. The environment-related provisions of the Canada-Peru FIPA are identical to those of Canada's FIPA model.

Mirroring Canada's model, the final Canada-Peru FIPA includes general exceptions with respect to the protection of human, animal or plant life or health, as well as the conservation of exhaustible natural resources. These safeguards, found in Article 10(1), are based on those contained in GATT Article XX and GATS Article XIV.

As per the FIPA model, Article 11 of the agreement contains a clause on "not lowering standards", whereby the signatories recognize that it is inappropriate to encourage investment by relaxing domestic health, safety or environmental measures. In the event that a Party offers such encouragement, the other Party may request consultations.

Finally, and identical to the model, Annex B.13(1) of the Canada-Peru FIPA provides that regulations designed and applied to advance legitimate public welfare objectives, such as those respecting health, safety and the environment, do not constitute an indirect expropriation.

Comments on this report may be sent by email, mail or fax to:

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Any comments received will be circulated to the lead negotiator and the Government of Canada's EA of Trade Steering committee in order to inform future EAs of trade and investment negotiations and other relevant policy development and decision-making processes.