



Canada-U.S. Safe Third Country Agreement

Safe Third Country Agreement remains in effect

We're [appealing](#) the Federal Court of Canada's decision on the Safe Third Country Agreement (STCA).

The STCA continues to be in effect. Individuals entering Canada at a land port of entry continue to be ineligible to make a refugee claim, and will be returned to the U.S. unless they meet one of the relevant exceptions under the STCA.

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The Safe Third Country Agreement between Canada and the United States (U.S.) is part of the U.S.–Canada Smart Border Action Plan.

Under the Agreement, refugee claimants are required to request refugee protection in the first safe country they arrive in, unless they qualify for an exception to the Agreement.

The Agreement helps both governments better manage access to the refugee system in each country for people crossing the Canada–U.S. land border. The two countries signed the Agreement on December 5, 2002, and it came into effect on December 29, 2004.

To date, the U.S. is the only country that is designated as a [safe third country](#) by Canada under the *Immigration and Refugee Protection Act*.

The Agreement does not apply to U.S. citizens or habitual residents of the U.S. who are not citizens of any country (“stateless persons”).

Where the Agreement is in effect

The Safe Third Country Agreement applies only to refugee claimants who are seeking entry to Canada from the U.S.:

- at Canada-U.S. land border crossings
- by train or
- at airports, **only if** the person seeking refugee protection in Canada has been refused refugee status in the U.S. and is in transit through Canada after being deported from the U.S.

Exceptions to the Agreement

Exceptions to the Agreement consider the importance of family unity, the best interests of children and the public interest.

There are four types of exceptions:

- Family member exceptions
- Unaccompanied minors exception
- Document holder exceptions
- Public interest exceptions

Even if they qualify for one of these exceptions, refugee claimants must still meet all other eligibility criteria of Canada's immigration legislation. For example, if a person seeking refugee protection has been found inadmissible in Canada on the grounds of security, for violating human or international rights, or for serious criminality, that person will not be eligible to make a refugee claim.

Family member exceptions

Refugee claimants may qualify under this category of exceptions if they have a [family member](#) who:

- is a Canadian citizen
- is a permanent resident of Canada
- is a protected person under Canadian immigration legislation
- has made a claim for refugee status in Canada that has been accepted by the Immigration and Refugee Board of Canada (IRB)
- has had his or her removal order stayed on humanitarian and compassionate grounds
- holds a valid Canadian work permit
- holds a valid Canadian study permit, or
- is over 18 years old and has a claim for refugee protection that has been referred to the IRB for determination. (This claim must not have been withdrawn by the family member, declared abandoned or rejected by the IRB or found ineligible for referral to the IRB.)

Unaccompanied minors exception

Refugee claimants may qualify under this category of exceptions if they are minors (under the age of 18) who:

- are not accompanied by their mother, father or legal guardian
- have neither a spouse nor a common-law partner, and
- do not have a mother, a father or a legal guardian in Canada or the United States.

Document holder exceptions

Refugee claimants may qualify under this category of exceptions if they:

- hold a valid Canadian visa (other than a transit visa)
- hold a valid work permit
- hold a valid study permit
- hold a travel document (for permanent residents or refugees) or other valid admission document issued by Canada, or
- are not required (exempt) to get a temporary resident visa to enter Canada but require a U.S.–issued visa to enter the U.S.

Public interest exceptions

Refugee claimants may qualify under this category of exceptions if:

- they have been charged with or convicted of an offence that could subject them to the death penalty in the U.S. or in a third country. However, a refugee claimant is ineligible if he or she has been found inadmissible in Canada on the grounds of security, for violating human or international rights, or for serious criminality, or if the Minister finds the person to be a danger to the public.

Making a refugee claim under the Safe Third Country Agreement

For detailed information on making a refugee claim for protection in Canada at the Canada–U.S. border, please refer to the [Canada Border Services Agency \(CBSA\)](#).

Designation of Safe Third Countries

Section 102 of the *Immigration and Refugee Protection Act* (IRPA) permits the designation of safe third countries for the purpose of sharing the responsibility for refugee claims. Only countries that respect human rights and offer a high degree of protection to asylum seekers may be designated as safe third countries.

To date, the United States is the only designated safe third country.

Review of Safe Third Countries

The *Immigration and Refugee Protection Act* (IRPA) requires the continual review of all countries designated as safe third countries. The purpose of the review process is to ensure that the conditions that led to the designation as a safe third country continue to be met.

Specifically, the legislation requires that the review of a designated country be based on the following four factors:

- whether it is party to the 1951 Refugee Convention and the 1984 Convention Against Torture;
- its policies and practices with respect to claims under the 1951 Refugee Convention, and its obligations under the 1984 Convention Against Torture;
- its human rights record; and
- whether it is party to an agreement with the Government of Canada for the purpose of sharing responsibility with respect to claims for refugee protection.

In addition, the Governor in Council may issue directives to provide greater clarity on the review process. The current [directives](#) came into effect in June 2015. Under these directives:

For the United States:

- The Minister of Citizenship and Immigration will monitor, on a continual basis, the four factors described above and report to the Governor in Council should circumstances warrant.

For any other countries that may be designated as safe third countries in the future:

- The Minister of Citizenship and Immigration will review on a continual basis the four factors described above and will report to the Governor in Council regularly.

Reviews incorporate information obtained from a number of sources, including United Nations organizations, international human rights organizations, government agency reports, statistical records and policy announcements, relevant academic research, and media reports.

Ongoing Designation of the United States

The United States continues to meet the requirements for designation as a safe third country.

Factor 1: Whether the United States is party to the 1951 Refugee Convention and the 1984 Convention Against Torture

- The United States is signatory of two international treaties that provide protection to people fearing persecution or at risk of torture in their countries of origin: the 1951 Refugee Convention and its 1967 Protocol, and the 1984 Convention Against Torture.

Factor 2: Policies and practices with respect to claims under the 1951 Refugee Convention and obligations under the 1984 Convention Against Torture

- There exists in the United States an extensive administrative system, subject to judicial checks and balances, for assessing refugee protection applications. The refugee status determination system offers a high degree of protection to refugee protection claimants.

Factor 3: Human rights record of the United States

- The United States meets a high standard with respect to the protection of human rights. It is an open democracy with independent courts, separation of powers and constitutional guarantees of essential human rights and fundamental freedoms.

Factor 4: Whether the United States is party to an agreement with Canada for the purpose of sharing responsibility with respect to claims for refugee protection

- The *Safe Third Country Agreement* between Canada and the United States was signed on December 5, 2002, came into force on December 29, 2004, and remains in force.

Definitions

Safe third country

A safe third country is a country where an individual, passing through that country, could have made a claim for refugee protection. In Canada, subsection 102(2) of the *Immigration and Refugee Protection Act* outlines the criteria for designating a country as a safe third country.

Family member

The Safe Third Country Agreement recognizes a family member as the following:

- spouse
- legal guardian
- child
- father or mother
- sister or brother
- grandfather or grandmother
- grandchild
- uncle or aunt
- nephew or niece
- common-law partner
- same-sex spouse

Related links

- [Canada Border Services Agency \(CBSA\)](#)
- [Safe Third Country Agreement \(December 2002\)](#)
- [Regulations Amending the Immigration and Refugee Protection Regulations \(Canada Gazette, Vol. 138, No. 22 – November 3, 2004\) \(PDF, 798 KB\) – archived](#)
- [Safe Third Country Agreement Comes into Force \(news release, December 29, 2004\) – archived](#)
- [Claiming Refugee Protection at Canada–United States Land Border \(May 2006\)](#)

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