

the review process will be phased out over the same period. These changes to the Investment Canada review process will not apply to the oil and gas and uranium sectors.

- Article 1602: national treatment once established, i.e., the conduct, operation and sale of U.S.-owned firms in Canada or Canadian-owned firms in the United States will be subject to the same rules as firms owned by domestic investors. Both governments are completely free to regulate the ongoing operation of business enterprises in their respective jurisdictions under, for example, competition law, provided that they do not discriminate.
- Article 1603: limits on certain performance requirements. Both countries have agreed to prohibit investment-related performance requirements (such as local content and import substitution requirements) which significantly distort bilateral trade flows. The negotiation of product mandate, research and development, and technology transfer requirements with investors, however, will not be precluded. Moreover, this Article does not preclude the negotiation of performance requirements attached to subsidies or government procurement.
- Article 1605: due process on expropriation. If either government chooses to nationalize an industry to achieve some public policy goal, it is obligated to acquire foreign-controlled firms on the basis of due process and based on the payment of fair and adequate compensation.
- Article 1606: no restrictions on the repatriation of profits or the proceeds of a sale other than those necessary to implement domestic laws of general application, such as bankruptcy laws, the regulation of securities or balance-of-payment measures.

These undertakings are prospective (i.e., applied to future changes in laws and regulations only). Existing laws, policies and practices are grandfathered, except where specific changes are required (Article 1607). The practical effect of these obligations, therefore, is to exempt the oil and gas and uranium sectors from changes to the *Investment Canada Act* (Annex 1607.3) and to freeze the various exceptions to national treatment provided in Canadian and U.S. law (such as the restrictions on foreign ownership in the communications and transportation industries). Additionally, both