
National Treatment

The Agreement establishes rules which will guide Canadian and U.S. governments in enacting future laws and regulations for the service industries covered in the Services Chapter of the Agreement. However, all existing government regulations will remain in place.

Barriers to trade in services arise predominantly from the regulation of the sectors involved. As new government measures for covered services are introduced, Canada and the United States will treat suppliers from the other country no less favourably than domestic suppliers, that is to say, they will provide national treatment. Moreover, when modifying existing measures, they will not increase the degree of discrimination against suppliers from the other country.

The undertaking not to discriminate between each others' suppliers does not mean that regulations will be harmonized between the two countries. Canada is free to decide which service industries it will regulate and, provided that the non-discriminatory principle is adhered to, how they will be regulated. In situations where Canada currently regulates service industries extensively and the United States does not, there is no obligation to harmonize the degree of regulation. Either country can continue to regulate its service sectors, subject only to the non-discrimination obligation.

The Agreement recognizes that there may be legitimate circumstances, for example, consumer protection or safety, requiring differential treatment of suppliers

of the other country. As long as the treatment of the supplier from the other country is equivalent in effect, different treatment for valid reasons is allowed. Governments remain free to license and certify providers of specific services, but must not in future use these procedures in a discriminatory manner to create barriers for service providers from the other country.

While there are no rules of origin for services as there are for trade in goods, the Agreement is meant to benefit Canadian and American service industries. Either Government remains free to deny the benefits of this Chapter if it can be demonstrated that a service is in fact being provided by entities of a third country. In such instances, each country will decide how to determine which service imports are from third parties. At the same time, neither country is obliged to discriminate against providers of services from third parties.

The effect of these undertakings is to create a contractual obligation for each country to maintain and enhance the current level of access to its market for suppliers of services from the other country. In this way, the Agreement has secured for the future the relatively open trade environment which currently exists.