Shipping

A number of maritime laws (collectively known as the Jones Act) impose a variety of limitations on foreign participation in the U.S. domestic maritime industry. Under these laws, the carriage of cargo or passengers between points in the United States is restricted to U.S.-flagged vessels that are built, owned and crewed by U.S. citizens. Similar restrictions apply to dredging, salvage and other commercial marine activities in U.S. waters. Canada's particular concerns relate to the U.S.-build requirement, which precludes the use of Canadian-built vessels in U.S. domestic marine activities. In international shipping, there are limitations on foreign ownership of vessels eligible for documentation in the United States. In addition, several subsidies and other support measures are available to operators of U.S. vessels; for example, cargo preference laws restrict the carriage of military cargo and limit the carriage of government non-military cargo, aid cargo and certain agricultural commodities to U.S. vessels. These restrictions (coupled with defence-related prohibitions of the Byrnes/Tollefson Amendment) limit Canadian participation in U.S. shipping activities.

Canada will continue to use every appropriate opportunity to encourage the liberalization of the provisions of the Jones Act that adversely affect Canadian interests. Although there have been renewed calls for reform, the cabotage and cargo preference restrictions continue to enjoy significant support in the United States, limiting the prospect for any major change in the short term.

Temporary Entry

Section 343 of the U.S. Illegal Immigration Reform and Immigrant Responsibility Act would require any alien seeking U.S. employment as a health-care worker to present a certificate from a U.S. credential-issuing organization verifying the person's professional competency and proficiency in English. An interim rule is currently in place that affects only those health-care workers seeking admission to the U.S. on a permanent basis to perform services in the fields of nursing and occupational therapy. An indefinite waiver of inadmissibility for health-care workers seeking temporary entry remains in effect pending final implementation of the regulations. This waiver is a temporary solution, and Canada continues to press its view to the U.S. Administration and Congress that the duplicative certification requirements of Section 343, as it applies to those seeking temporary entry, would violate U.S. NAFTA obligations. Our ultimate goal is to see the U.S. Administration maintain a permanent waiver of inadmissibility for those health-care workers seeking temporary admission to the United States.

Government Procurement

Canada will continue to press the U.S. government to further open its procurement markets to Canadian suppliers. Currently, U.S. government exceptions under NAFTA and WTO procurement agreements prevent Canadian suppliers from bidding on a broad range of government contracts in sectors of key importance. Especially onerous are the set-aside programs for small and minority-owned businesses and the Buy American provisions. In addition, both long-standing and ad-hoc legislative provisions, as well as conditions attached to funding programs, impede access for Canadian suppliers. The need for progress in both assuring and improving access for Canadian suppliers at the U.S. federal, state and local levels remains a key issue for provincial governments in determining whether any offer to open Canadian provincial and local government markets could be made.

Small Business Set-asides

The Canadian government remains concerned about the extensive and unpredictable use of exceptions to the NAFTA and the WTO AGP for small business set-asides. Canadian suppliers face the ever-present possibility that government markets that they have successfully developed and supplied competitively will subsequently be closed through the application of the set-aside exception. The definition of a U.S. small business varies by industry, but is typically 500 employees in a manufacturing firm (up to 1,500 employees in certain sectors) or annual revenues of up to US$17 million for a services firm. Furthermore, U.S. federal departments routinely meet or exceed their goal to award 23 percent of their contract dollars to U.S. small business. In turn, the U.S. government requires that bids from contractors and major subcontractors include plans to subcontract work to U.S. small business. Canada is also concerned that the use of such subcontracting plans impedes Canadian access to the U.S. market. We will continue to press the Administration on this matter.