

BASIC PRINCIPLES OF INTERNATIONAL TRADE LAW

The law of international trade is both wide-ranging and complex. This discussion should therefore be seen only as an introduction to some of the most basic elements of the law of international trade.

1. "MOST-FAVoured-NATION TREATMENT"

This obligation is a hallmark of the WTO Agreements (GATT, GATS and TRIPS) and of the NAFTA. Where Canada grants most-favoured-nation (MFN) status to another country, it is promising to treat that country's products or services no less favourably than it treats any other country's products or services. Thus, a preference granted to the goods of one country must be extended to like goods of all MFN countries. This is an important obligation, since the GATT requires that all member states accord each other's goods MFN treatment. Canada must thus extend any preference to most of the world's countries. Note, however, that there are exceptions for preferences accorded within the framework of a regional free trade association. The MFN principle generally applies to border measures like tariffs, although it also applies to measures affecting the internal sale, offering for sale, purchase, transportation, distribution and use of products. It can be applied to both goods and services. In addition, NAFTA extends it to treatment accorded NAFTA investors and their investments.

2. "NATIONAL TREATMENT"

This principle was central to the GATT 1947 and, like MFN, is a central obligation of the three main WTO Agreements (GATT, GATS and TRIPS). It requires that internal laws not be used to afford protection to domestic production. Internal law includes internal taxes and all laws and regulations affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products. No imported goods shall be subject to internal taxes or charges in excess of those applied to like domestic products, and such taxes cannot be otherwise applied so as to afford protection to domestic production. NAFTA has expanded the application of the concept for its own purposes: under the NAFTA, the parties must extend national treatment to the investors and service providers of the other NAFTA parties. Treatment accorded to them shall be no less favourable than that accorded to Canadian investors and service providers.

3. DUMPING

This is the practice of selling goods in a foreign market at prices below the normal value of the goods. Where this causes or threatens to cause damage to domestic industry, the importing country may impose an anti-dumping duty on those goods.

4. SUBSIDIES AND COUNTERVAILING DUTIES

A subsidy is a financial contribution granted by a government conferring a benefit on the manufacture, production or export of a product. The WTO prohibits granting subsidies contingent on export performance or on the use of domestic over imported products. Where a subsidy is provided so as to contravene trade law disciplines, the importing country may level a countervailing duty charge equal in amount to the subsidy.