

some states. Although Canadian companies are not being treated any differently from any other U.S. out-of-state companies, Canadian tax structures result in Canadian companies bearing a greater burden than U.S. companies.

## **IMPROVING ACCESS FOR TRADE IN SERVICES**

### **Financial Services**

The Gramm-Leach-Bliley Act, passed in 1999, is the most important piece of financial services legislation enacted in the United States in decades. The Act allows foreign financial institutions to become financial holding companies and to engage in activities that they could not engage in before. With respect to the cross-border provision of services, Canada continues to seek a level playing field in securities, and it continues bilateral discussions with the United States on this issue. Further, as required under NAFTA, Canada, the United States and Mexico meet regularly to address financial services issues.

The U.S. government response to recent high-profile corporate failures was the Sarbanes-Oxley Act of 2002. It is sweeping legislation designed to promote confidence in U.S. capital markets. The federal government has been working to help ensure that Canadian public companies listed in the United States, and Canadian accounting firms auditing U.S.-listed companies, are treated fairly and, to the extent possible, are not unduly burdened by the new U.S. legislation.

### **Telecommunications**

Some Canadian services providers have, in the past, encountered problems such as a lack of transparency in the licensing process in the United States and lengthy delays in obtaining licences to provide telecommunications services in that country. Consequently, Canada will continue to carefully monitor U.S. implementation of its WTO commitments with respect to telecommunications services to ensure that Canadian services providers are subject to timely and transparent licensing procedures.

### **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. Canada's particular concern relates to the "U.S. build" requirement, which precludes the use of Canadian-built vessels in U.S. domestic marine activities. In addition, several subsidies and other support measures are available to operators of U.S. vessels. These restrictions, coupled with the defence-related prohibitions of the Byrnes-Tollefson Amendment (which precludes the acquisition and repair of ship hull structures by non-U.S. entities), limit Canadian participation in U.S. shipping activities. Canada will continue to use every appropriate opportunity to raise the issue of the U.S.-build requirement dealing with maritime transportation.

### **Temporary Entry**

The facilitation of the temporary entry of business people into the United States in order to promote trade in services, goods and investment remains a priority issue. Canada continues to discuss broader border management issues with the United States through the Smart Border process. NAFTA contains comprehensive temporary entry provisions facilitating the movement of business persons in four categories: business visitors, intra-company transferees, professionals, and traders and investors. There is work ongoing in the NAFTA Temporary Entry Working Group to further facilitate the movement of business persons, particularly actuaries and plant pathologists. In addition, there has been agreement to consider NAFTA coverage for additional information technology professionals.

Despite NAFTA Chapter 16 and general immigration provisions and the work being done on the Smart Border Action Plan, U.S. temporary entry remains a concern. Delays at the border or denial of entry can result in loss of business and additional expense for businesspeople, employers and their clients. There still appears to be a lack of knowledge or understanding of the NAFTA cross-border provisions among Canadian business persons. Government officials continue to try to ensure that Canadian business persons are better informed of the NAFTA provisions and to work with U.S. immigration officials to ease some of the U.S. temporary entry difficulties.