

Transfers

NAFTA investors will be able to convert local currency into foreign currency at the prevailing market rate of exchange for earnings, proceeds of a sale, loan repayments or other transactions associated with an investment. Each NAFTA country will ensure that such foreign currency may be freely transferred.

Expropriation

No NAFTA country may directly or indirectly expropriate investments of NAFTA investors except for a public purpose, on a non-discriminatory basis and in accordance with principles of due process of law. Compensation to the investor must be paid without delay at the fair market value of the expropriated investment, plus any applicable interest.

Dispute Settlement

This section sets out a detailed mechanism for the resolution of investment disputes involving a breach of the NAFTA investment rules by the host country. A NAFTA investor, at its option, may seek either monetary damages through binding investor-state arbitration or the remedies that are available in the host country's domestic courts.

Country-Specific Commitments and Exceptions

The NAFTA includes explicit country-specific liberalization commitments and exceptions to the national treatment, MFN and performance requirement rules. In the case of Mexico, these exceptions take into account constitutional requirements reserving certain activities to the Mexican State. Each country will specify exceptions for state and provincial measures within two years. Exceptions may not be made more restrictive and, if liberalized, may not subsequently be made more restrictive. However, a few sectors, such as basic telecommunications, social services and maritime services, are not subject to this constraint.

Canada may review acquisitions as provided in the Canada-U.S. FTA. Mexico may review acquisitions with an initial threshold of \$25 million phased up to \$150 million in the tenth year after the Agreement goes into effect. Threshold levels will be indexed.

Exceptions

The investment provisions do not apply to government procurement and subsidies. Other provisions of the Agreement address exceptions related to national security and to Canada's cultural industries.

Investment and the Environment

The NAFTA provides that no country should lower its environmental standards to attract an investment and that the countries will consult on the observance of this provision.

The Agreement also specifies that a country may take action consistent with the NAFTA's investment provisions to protect its environment.

Competition Policy, Monopolies and State Enterprises

The NAFTA includes provisions on anticompetitive government and private business practices, in recognition that disciplines in this area will help fulfill the objectives of the Agreement.

Competition Policy

Each NAFTA country will adopt or maintain measures against anticompetitive business practices and will cooperate on issues of competition law enforcement and other competition issues.

Monopolies and State Enterprises

State Enterprises: The Agreement requires any enterprise owned or controlled by a federal, provincial or state government to act in a manner consistent with that country's NAFTA obligations when exercising regulatory, administrative or other governmental authority, such as the granting of licenses.

Monopolies: The NAFTA imposes certain additional disciplines on current and future federal government-owned monopolies and on any privately-owned monopoly that a NAFTA country may designate in the future. When buying or selling a monopoly good or service, the monopoly must follow commercial considerations, consistent with the terms of its government mandate, and must not discriminate against goods or businesses of the other NAFTA countries. NAFTA provides that each country must ensure that such monopolies do not use their monopoly positions to engage in anticompetitive practices in non-monopoly markets in that country's territory.

Trade and Competition Committee

A trilateral committee will consider issues concerning the relationship between competition laws and policies and trade in the free trade area.

Financial Services

The NAFTA establishes a comprehensive principles-based approach to disciplining government measures regulating financial services. This section covers measures affecting the provision of financial services by financial institutions in the banking, insurance and securities sectors as well as other financial services. The section also sets out certain country-specific liberalization commitments, transition periods for compliance with the agreed principles and certain reservations listed by each country.