Intellectual Property Protection

The NAFTA includes comprehensive coverage of intellectual property rights encompassing standards and rules of enforcement. Patents, trademarks, copyrights and trade secrets of Canadian-based companies and individuals are protected.

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), concluded as part of the Uruguay Round, does not require Canada to make significant changes to its laws dealing with intellectual property. (See Chapter 15 for more information.)

INVESTMENT THRESHOLDS

For investments in Canada, the NAFTA provides Mexican and American firms preferential review thresholds under the Investment Canada Act. Subject to certain exceptions such as cultural industries, financial and transportation services and uranium, the 1995 threshold for a direct acquisition by a NAFTA investor is $160 million in assets of the business being acquired. Indirect acquisitions by U.S. and Mexican investors are not reviewable under the Investment Canada Act. (For more information see Chapter 12.)

As a result of new federal legislation, the NAFTA threshold levels are being extended to investors from WTO countries.

SECTOR-SPECIFIC PROVISIONS

There are a number of provisions under the NAFTA that relate to trade in products and services of specific sectors. In the auto trade, for example, the NAFTA carefully spells out North American content rules for vehicles and auto parts. For textiles and apparels, new and tighter rules of origin have been introduced that require greater sourcing in North America. With regard to telecommunications, Mexico eliminated tariffs on almost all communications equipment in 1994. The exceptions are central switching apparatuses and telephone sets, for which tariffs will be phased out over five years. The NAFTA limits Mexico's use of restrictive trade practices in the energy sector.

Important provisions also pertain to trade in services. Under the NAFTA, Mexico will provide substantial access to its market after a transition period. Canadian banks, trust companies, securities brokers and insurance companies will be able to open subsidiaries, invest in, and acquire ownership of financial institutions in Mexico. The Agreement also provides for more opportunities in developing cross-border services such as transportation, especially trucking; specialty air services, for example aerial mapping and surveying; and professional services, including management, engineering, advance data processing, accounting and legal services.

The opening up of trade in these services, combined with increased access to government procurement, means that Canadian-based companies are able to bid on contracts tendered by the American and Mexican governments and state-owned corporations. In the U.S., the services market is approximately $30 billion per year. In Mexico, the state-owned petroleum and electricity corporations contract for more than $8 billion per year in goods and services.