Emerging Trends in International Trade Agreements: Impact on Personnel Certification

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Int’l Trade Agreements and Personnel Certification

Agenda

Trends
Applicability
Impact

--- Certification
--- Portability
--- Mobility

Conclusion
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Turning Points and Trends

- 1930 Protection
- 1936 Bilateral tariff cuts (reciprocity)
- 1947 Multilateral tariff cuts (MFN)
- 1979 Non-tariff barriers
- 1986 Comprehensive multilateral
- 1995 Bilateral/Regional FTAs
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- **U.S. Bilateral/Regional FTAs**
  - 1985 – Israel
  - 1994 – NAFTA
  - 2000 – Jordan
  - 2003 – Chile, Singapore
  - 2004 – Australia, Bahrain, Morocco
  - 2005 – CAFTA-DR
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Extended Coverage
- Non-tariff Barriers
- Services
- Intellectual Property

Extended Reach
- Number of Countries
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- **Reasons for the Trend**
  - Economic growth through trade liberalization
  - Competitive advantage over outsiders
  - Pressures to advance multilateral negotiations
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- GATS Provisions
  - Domestic Regulation
  - Recognition
  - Personnel Movement (Mode 4)

- NAFTA Provisions
  - Chapter on Temporary Entry
  - Annex on Business Persons
  - Appendix on Professionals
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- **Professional Services in the GATS**
  - WTO does not issue international licenses or certifications for any profession/occupation.
  - GATS does not automatically extend the right of professionals, licensed or certified in one country, to practice in another.
  - WTO does not regulate the professions.
  - WTO recognizes the right of governments to regulate.
Professional Services in the GATS

- Sets forth general rules and principles as guidelines for regulations
  - establish and administer regulations
  - fair and impartial
  - transparent
  - non-discriminatory
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- GATS Objectives for Licensing and Certification
  - Prevent, remove or alleviate restrictive measures
  - Use objective and transparent criteria
  - Non-discriminatory treatment of foreign entities.
  - Not be more burdensome than necessary to ensure the quality of the service,
  - Should not constitute a disguised restriction on the provision of a service.
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- **GATS Objectives for Licensing and Certification**
  - Applications receive prompt attention
  - Procedures themselves are not restrictive
  - Procedures are open to foreigners
  - Aim: to liberalize, not to de-regulate
  - Legal framework
  - Address barriers to trade and investment
  - Forum for further negotiations
  - Open services markets
GATS work program to develop disciplines

- For licensing requirements and technical standards that may constitute unnecessary barriers to trade (WPPS)
- Originally focused on professionals (accountants)
- Guidelines for the negotiation of MRAs on the licensing of accountants (adopted 1997)
- Disciplines for regulation of the accountancy profession (adopted 1998 -- to become effective upon completion of the next round of negotiations)
- Working Party (renamed WPDR) currently considering whether these disciplines can be adapted to other professions and other services as well
Recognition and International Standards

- Use of international standards
- Multilaterally agreed criteria
- Relevant intergovernmental and non-governmental organizations
- Establish and adopt common international standards and criteria for recognition for relevant services trades and professions
- Envisages standards developed outside the WTO
- By Members working in cooperation with intergovernmental and non-governmental organizations
- Use of international standards for the practice of professions and granting of recognition is encouraged
- Members are free to choose not to use them
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- **GATS Mode 4 - Temporary Entry**
  - Provide international mobility of personnel through negotiation of commitments by Member countries
  - Greater portability of credentials and easier entry for professionals and other skilled personnel = important goals
    - for international businesses
    - for developing countries
NAFTA Personnel Mobility

- Temporary entry for business persons
- Clear and objective criteria
- Streamlined admission procedures
- TEWG established (Art. 1605)
- Professionals (TN Visa)
- List of occupations
- Appendix on Professional Services
NAFTA Business Persons

Four categories

- Business visitors
- Treaty traders and investors
- Intracompany transferees
- Professionals
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- **Impact of Trade Agreements**
  - Personnel certification will grow
  - Consumer and business demand
  - Trade agreements will help
    - Standards
    - Regulation
    - Recognition
    - Mobility
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- **Some problems will remain**
  - Citizenship requirements
  - No process for foreigners
  - Separate process for foreigners
  - Lack of information on how to apply
  - Non-recognition of credentials
  - Only local education is recognized
  - Only local accreditation is recognized
Some problems will remain

- High standards vs. low standards
- World Trade Report 2005
- Questions raised
  - Should national standards be harmonized into a single international standard?
  - Should they be voluntary or mandatory?
Questions (cont’d)

- To what extent should standard-setting be a public or private activity?
- Who should be responsible for ensuring that producers and suppliers conform to established standards?
- How can developing countries participate effectively in international standard-setting and develop a domestic infrastructure to shape their own national regimes?
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- Should domestic organizations certify and accredit individuals, programs, institutions, or other bodies outside the home country?
- If foreign programs or institutions are to be considered for accreditation, how will the accrediting organization make its determinations?
- How will the accrediting organization finance the costs associated with the evaluation of institutions or organizations in other countries (e.g., on-site visits, transportation, lodging, translations)?
- As an alternative, should other countries be required or encouraged to establish their own certification and accrediting bodies?
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- Progress, but problems will remain
- Mobility
  - Quotas and prohibitions
  - Labor market tests
  - Fees
  - Social problems due to influx
  - Outsourcing
  - National security
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- Headed in the right direction
  - Negotiations take time
  - Implementation takes more time
  - Monitor the situation
  - EU Directives/Canada AIT
  - Make views known to governments
  - Be patient
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- Headed in the right direction?

  - Yogi Berra:
    “If you don’t know where you’re going, you’ll wind up somewhere else.”
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The End

Applaud and Cheer