

Emerging Trends in International Trade Agreements: Impact on Personnel Certification

Presented by

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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.

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- **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

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■ **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

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■ 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

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- **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

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- **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

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- 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?

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■ 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