

NAFTA's Relationship to State Support of Industries and Export

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Abstract

California has a variety of programs to stimulate exports including trade offices, export financing, trade shows, etc. This paper addresses the issue of whether any of these programs prohibited under NAFTA as improper subsidies.

The text of the North American Free Trade Agreement (NAFTA) itself is largely silent on the issues of domestic support of industries and export subsidies. NAFTA contains no explicit requirements that export subsidies or state programs designed to support specific industries be eliminated. NAFTA does, however, require that all parties to the agreement accord "National Treatment" to the goods of any other party to the agreement. This essentially means that a signatory country may not give preferential treatment to goods produced in its country.

This "National Treatment" requirement would seem to preclude direct domestic support of industry. NAFTA's "National Treatment" obligation, however, is interpreted in accordance with the General Agreement on Tariffs and Trade (GATT), which excludes direct subsidy to industries before the export stage. The main exception to NAFTA's "silence" on domestic support and export subsidies is the extensive discussion and explicit allowance of such domestic support in the agricultural sector.

Beyond this skeletal framework, there is little discussion of the affect of NAFTA on state support and subsidy in NAFTA itself, the Administrative Action Statement, or secondary sources. The federal-state consultation process is intended to sort out any grey areas where the legitimacy of state action is in dispute.