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FEATURED Q&A

What Do New U.S. Goals Mean for NAFTA Talks?



The U.S. objectives for the renegotiation of NAFTA, released this month by the office of U.S. Trade Representative Robert Lighthizer, makes reduction of U.S. trade deficits a priority. // File Photo: U.S. Senate.

Q The administration of U.S. President Donald Trump on July 17 released a 17-page list of its objectives for the upcoming renegotiation of the North American Free Trade Agreement, or NAFTA. The document, which the Trump administration sent to Congress, makes reduction of U.S. trade deficits a top priority while also incorporating elements of the Trans-Pacific Partnership agreement, which Trump abandoned after taking office in January. The objectives also include elimination of the Chapter 19 dispute settlement panel, a system whereby governments can argue legal claims about unfair trade practices. What do the proposals listed on the document mean for Canada and Mexico as they strategize how best to negotiate with the Trump administration? How are the talks most likely to shake out, and how close will the White House get to achieving its objectives for NAFTA? Who stands to gain or lose the most from Trump's newly stated objectives for the trade accord?

A Arturo Sarukhan, board member of the Inter-American Dialogue and former Mexican ambassador to the United States: "Unlike Shakespeare's Mark Antony, Trump not only did not bury the TPP but also ended up praising—albeit obliquely via the published NAFTA objectives—the agreement that he killed upon entering office. To a great extent, those objectives include 21st century rules-based trade disciplines of the TPP. Furthermore, it seems apparent that regarding many of the issues, the administration hasn't yet decided what to do—or isn't showing its hand—so some of the USTR's objectives may possibly be placeholder language. The administration's vagueness

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Mexico Registers Trade Surplus as Exports Rise

The country registered a \$62 million trade surplus in June amid a rise in exports of manufactured goods.

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Aldemir Bendine is suspected of receiving bribes from construction giant Odebrecht.

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Venezuela Bans Protests Ahead of Constitutional Assembly Vote

The country's interior and justice minister, Néstor Reverol, announced the ban, which lasts until Tuesday. The opposition, however, has planned mass protests for today in a last-ditch effort to push the government to scrap the vote for the powerful new assembly that will be tasked with rewriting the Constitution.

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Reverol // File Photo: Venezuelan Government.

POLITICAL NEWS

Venezuela Bans Protests Ahead of Sunday's Vote

Venezuela's government announced Thursday that it would ban protests ahead of Sunday's vote to elect members of a new powerful body that will be tasked with rewriting the country's Constitution, CNN reported. The country's interior and justice minister, Néstor Reverol, announced the ban, which he said will last from

“We will not kneel,
we will not fail.
We will fight.”

— Freddy Guevara

today until Tuesday. The move prohibits “all public meetings and demonstrations, gatherings and other similar acts that might disturb the electoral process,” said Reverol, adding that violators of the ban could face sentences of five to 10 years in prison. The ban was announced toward the end of a two-day national strike that the country's opposition called as a last-ditch effort to push President Nicolás Maduro to scrap Sunday's vote to elect the constitutional assembly, which will have the power not only to rewrite the Constitution, but also to overrule all other state institutions, including courts and the opposition-controlled National Assembly. Maduro has said the new assembly and a new Constitution are needed to bring the country out of its political and economic crises, but his opponents see the move as an effort to increase his own power, and they accuse him of trying to establish a dictatorship. It was unclear how effective the protest ban would be, as opposition leaders have called for demonstrations today in Caracas. At a rally of is supporters on Thursday, Maduro said he has proposed talks with the opposition. He said he wanted “a table for dialogue and reconciliation for the homeland.” He added, “I would be happy if we could install this before the

[vote].” Maduro said he wanted to avoid more violence and called on the opposition to stop protesting in the streets. However, opposition member Freddy Guevara, the vice president of the National Assembly, said late Thursday that protests would continue through Sunday's vote. “We will not kneel, we will not fail. We will fight,” he said. Also on Thursday, the U.S. State Department ordered family members of staff members at the U.S. embassy in Caracas to leave the country. U.S. government employees who want to leave Venezuela must get U.S. approval to depart, but will be allowed to leave voluntarily.

ECONOMIC NEWS

Mexico Registers Trade Surplus in June as Exports Rise

Mexico registered a \$62 million trade surplus in June due to an increase in exports of manufactured goods, which offset increased imports of petroleum products, The Wall Street Journal reported. The surplus brought the country's trade balance for the first half of this year to a deficit of \$2.91 billion. Exports from Mexico rose by 11.5 percent year-over-year to \$35.61 billion, while imports rose by 9.5 percent to \$35.55 billion. State-run oil company Pemex exported 1.157 million barrels per day (bpd) of crude oil in June, up from 958,000 bpd the month before and up from 1.1 million during the same period a year before. The value of Mexico's petroleum exports in June was up by 10.4 percent to \$1.78 billion, while imports of gasoline, natural gas and other fuels were 19.6 percent higher to \$3.1 billion. The \$1.32 billion petroleum trade deficit was offset by a \$1.38 billion surplus in nonpetroleum goods. Exports of Manufactured goods rose by 11.3 percent, with a 17.8 percent jump in the exports of vehicles and auto parts alone. Steel and processed food exports also increased significantly. Data from Pemex from the first half of July shows that crude exports are likely to continue to rise this month while the production of fuels is expected to fall, due

NEWS BRIEFS

Pakistani Supreme Court Removes Prime Minister in Panama Papers Case

Pakistani Prime Minister Nawaz Sharif was removed from office after the country's Supreme Court unanimously convicted him of corruption allegations that were revealed as a result of the Panama Papers leak in 2016, The Guardian reported today. The governing party said Sharif stepped down immediately, and he is now disqualified from participating in Pakistani politics for the next 10 years. The Panama Papers linked Sharif's children to the purchase of a London property through offshore companies in the British Virgin Islands in the early 1990s. His children were minors at the time, and Sharif was believed to have made the purchase.

Walmex Reports 15% Rise in Profit for Q2

Mexico's biggest retailer, Wal-Mart de México, or Walmex, said Thursday its net profit had increased by 15 percent in the second quarter, due to higher sales as well as lower costs and expenses, The Wall Street Journal reported. The company's net profit was 6.75 billion Mexican pesos, or approximately \$380 million, in the three months through June, up from 5.87 billion pesos a year earlier.

Peru Extending Deadline for Liquidation of La Oroya Smelter

The government of Peruvian President Pedro Pablo Kuczynski said Thursday that it would extend the deadline for the liquidation of the country's nearly century-old La Oroya smelter in an effort to find a new operator for the facility, Reuters reported. The smelter has mainly been shuttered since the 2009 bankruptcy of its latest operator, Doe Run Peru. The government failed to find a buyer in six auctions this year, most recently on Wednesday.

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could also be indicative of relevant disagreements between different agencies and departments over specific issues (USTR vs. Treasury on currency manipulation, for example). Apart from common Canadian and Mexican concerns over the administration's decision to seek the elimination of Chapter 19, its intent to get rid of NAFTA's so-called global safeguard exclusion (which curbs the ability to impose measures on others) might also generate pushback from Washington's two North American partners. And while the majority of topics listed do follow the format of traditional international trade negotiations (and are similar to the TPP process) and may well be generally consistent with Canada and Mexico's own objectives, the lengthy list and the inclusion of several controversial issues, such as unfair trade practices, might trigger lengthier negotiations than what political wisdom would counsel. Nonetheless, one should never let a good crisis go to waste. Beyond the slash-and-burn rhetoric of President Trump and his mercantilist obsession with trade deficits, both of which might still derail an agreement, the kick-off of the first negotiating round on Aug. 16 could, much like the TPP, provide us with an opportunity to modernize NAFTA, turning it into a gold standard, 2.0 free trade agreement. U.S. officials promising to 'do no harm' to NAFTA should realize—also in Shakespearean terms—that 'tis a tide we should not lose."

A Carlo Dade, director of the Trade & Investment Centre at the Canada West Foundation: "The Summary of Objectives for NAFTA was the administration's response to priorities, for any U.S. trade negotiation, set by Congress under the 2015 TPA legislation. As such, there was not much new in the submission, and hence little that Canadian and Mexican negotiators have not already seen and dealt with in TPP negotiations. An obvious exception is the call to eliminate Chapter 19 dispute settlement mechanisms. With NAFTA as a repeat of TPP negotiations

around a less crowded table, the United States will, among other objectives, revisit negotiations such as access to the Canadian market for dairy, eggs and poultry and raising de minimis limits, where it feels it got a bad deal under the TPP. The United States will also seek to resurrect TPP disciplines for copyright and intellectual property. For Mexico and Canada, concessions made in

“**If Canada and Mexico take a ‘re-negotiate everything’ stance, or threaten to do so, negotiations would have to extend past the hoped-for end-of-year deadline...**”

— Carlo Dade

the TPP negotiations are not the starting point for NAFTA talks; the clock is reset and bargaining starts from zero. The irony here is that if, as expected, the other TPP countries proceed with ratifying the agreement, Canada and Mexico will have the benefits of those TPP provisions that the United States wants in NAFTA, but U.S. companies will not. This will give Canadian and Mexican companies a competitive advantage in Asian markets, and will reduce pressure on their negotiators to make concessions at the NAFTA table. At the least, it should shift pressure to the United States, especially as U.S. agriculture will lose market share in Asia. If Canada and Mexico take a 're-negotiate everything' stance, or threaten to do so, negotiations would have to extend past the hoped-for end-of-year deadline and run into the 2018 Mexican and U.S. elections. Given the roughly 300+ days needed for notifications and waiting periods under the TPA, a deal could conceivably be pushed into the 2020 U.S. presidential election cycle, leaving President Trump to run on an unfulfilled NAFTA re-negotiation process. If this is

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to the shutdown of the Salina Cruz refinery in southern Mexico due to damages caused by a major fire at the complex.

BUSINESS NEWS

Former Petrobras CEO Arrested in Corruption Probe

Brazilian federal police on Thursday arrested former Petrobras CEO Aldemir Bendine over suspicions that he may have received large bribes from construction conglomerate Odebrecht, Reuters reported. The prosecutor-general's office in a statement Thursday said it had served three arrest warrants and had executed 11 search and seizure orders as part of the "Operation Car Wash" corruption probe. Legal representatives for Bendine were not immediately available for comment. According to the



Bendine // File Photo: Petrobras.

statement, Bendine allegedly sought 17 million reais, or approximately \$5 million, in bribes when he headed Banco do Brasil in exchange for authorizing the rollover of a loan to a unit of Odebrecht. Odebrecht refused his request, however. After he took over as head of Petrobras in 2015, Bendine is accused of demanding 3 million reais in payments from Odebrecht so that the company "would not be damaged by Petrobras" following the breaking of the Operation Car Wash corruption scandal. Odebrecht allegedly paid Bendine 3 million reais in 2015, according to the prosecutor general's office. Bendine also received another 3 million reais in 2017 from Odebrecht for an unspecified reason after he left Petrobras, the statement alleged.

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indeed the case, then the pressure is on the United States to make concessions to get a deal done quickly.”

A Gary Horlick, Washington-based international trade lawyer:

“Chapter 19 allows (but does not require) exporters to appeal Canadian, Mexican or U.S. antidumping or countervailing duties to neutral bilateral panels rather than local courts. As such, support for it has been publicly stated last month by almost every major U.S. agricultural group, including beef, pork, chicken, corn, wheat, soy, rice and dairy. The main push for deletion of Chapter 19 seems to come from U.S. producers of steel pipe, and from the Trump administration. Of the 47 (including three appeals to Extraordinary Challenge Committees, made up of retired appellate judges) cases against the United States under Chapter 19, 36 have been unanimous, meaning a 5-0 vote by a panel made up of experienced lawyers, at least two and often three of which are American (or at least 1 and often 2 retired U.S. appellate judges). No NAFTA panel decision result has been 3-2 split along nationality lines. And the claim (usually by the losing party) that Chapter 19 claims are biased or ‘weird’ is not supported by the facts. The Trump administration may be treating Chapter 19 as a bargaining chip, although it is odd to take a position that so clearly would harm U.S. agricultural exporters.”

A Rogelio Ramírez de la O, president of Ecanal in Mexico City:

“The Trump administration’s objectives in a revised NAFTA suggest that discussions could be very specific, in contrast to the discussion in 1992-1993, when free trade across the board was generally expected to yield large welfare gains and GDP growth for the three countries as well as upward convergence of Mexican wage rates and living standards.

Based on the experience of this agreement and at least a partial skepticism of unqualified free-trade benefits, this time around the U.S. objectives appear as corrections to problems, at least in the case of trade with Mexico, apart from some new areas that are to be included. For example, incorporating labor standards in the core agreement should address claims of U.S. parties that current Mexican unions do not always provide freedom in collective negotiations, resulting in unduly low wages—a big problem.

“ Mexico should negotiate for time to meet some of the most difficult commitments.”

— Rogelio Ramírez de la O

In the strengthening and increasing rules of origin and monitoring sensitive imports from non-NAFTA countries, Mexico is again at the center of the argument, because of high import content, in some cases Asia-originated, in many Mexican exports to NAFTA. In the case of eliminating Chapter 19 of the current agreement, the United States wants to have enough latitude in future investigations of dumping or unfair trade. The request that parties’ submissions in dispute settlements and resolutions and hearings be open to the public may not be welcome in Mexico. Similarly, the criminalization of government corruption is entirely a new ingredient. Insofar as the negotiation is dominated by these themes, it will be difficult to Mexico, even though they sound reasonable for ‘free and fair’ trade. In that case, Mexico should negotiate for time to meet some of the most difficult commitments.”

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