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NAFTA Watch

Updates from Benesch on the North American Free Trade Agreement

NAFTA WATCH VOL. 2

A Letter to Congress: The Administration's First Step Toward NAFTA Renegotiations



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This publication is our second installment in a series designed to provide our clients in the manufacturing, transportation and logistics, and related industries with monthly updates on any action taken by the Trump Administration, Congress and/or federal governmental agencies with respect to the North American Free Trade Agreement ("NAFTA").

On March 31, President Trump signed two executive orders. One order commissions a 90-day study of U.S. trade deficits. The study will detail specific causes for the trade deficit, country by country, product by product. The second order seeks to implement more strict and more effective enforcement of U.S. anti-dumping laws to prevent foreign manufacturers from undercutting U.S. companies by selling goods at unfair prices.

The Administration has circulated an eight-page draft letter among members of Congress that would start, when official notice has been

given to Congress in a final form letter, a 90-day countdown to the beginning of NAFTA renegotiations. The letter, signed by the acting U.S. Trade Representative, Stephen Vaughn, reflects a substantial softening from President Trump's hard-line position that he took in his campaign.

The letter calls for expanding market access among the three countries and eliminating licensing and permit barriers that tend to stall commerce. It calls for maintaining reciprocal access for textile and apparel products. The Trump Administration wants to adjust the agreement's rules of origin, or how much of a product must be made in a NAFTA country. It proposes that Canada and Mexico should expand the market for United States-made goods in their government procurement.

The letter gives itself room to get tougher if necessary. The proposal for reinstating tariffs, often referred to as a "snapback," is a safeguard mechanism to protect domestic industries. The letter, in broad terms, suggests to "level the playing field, on tax treatment," which will likely bring objections from Canada and Mexico.

Although Commerce Secretary Ross met with members of the informal House trade advisory committee last week, negotiations over NAFTA will be delayed while the Trump Administration

awaits confirmation of attorney Robert Lighthizer as U.S. Trade Representative, a key position to trade talks. At this time, the letter is in draft form while the Administration decides whether to send it and start the 90-day notice period while Lighthizer's confirmation remains uncertain.

The Mexican and Canadian governments have declined to officially comment directly on the draft letter. Global Affairs Canada, the country's foreign ministry, said, "Should notice of intent to renegotiate be given, Canada is prepared to discuss improvements at the appropriate time." Fernando Ruiz, head of the Mexican Council for Foreign Trade, Investment and Technology, said, "The tone has changed and that should calm us all." He continued, the generic nature of the document "helps cool the waters, it gives us more tranquility rather than uncertainty."

While still too early to predict the effect that the renegotiation or withdrawal from NAFTA will have on the U.S., any action by the Trump Administration in that regard will surely have a significant impact on the manufacturing community. This publication will provide monthly updates to keep our clients in the manufacturing, transportation and logistics, and related industries apprised of any developments.

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