

NAFTA Watch Newsletter Vol. 12 - NAFTA Renegotiation

Part 6: Slow Progress in Montreal

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This publication is our twelfth 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").

In the sixth round of negotiations in Montreal, negotiators held a series of face-to-face meetings before a final closed-door meeting among the U.S., Mexico, and Canada. Accounts have noted a less negative and more constructive tone than previous negotiation rounds despite failure to resolve critical issues.

One positive step was the discussion of automobile rules-of-origin policies. Although without resolution, sources have stated that the parties engaged in a three hour discussion about automobiles, which was more back-and-forth dialogue than previously conducted. Canada has suggested different ways to calculate and value components of a vehicle, which would assign more value to a vehicle's technological components by including intellectual property and emerging technologies in the rules of origin. Robert Lighthizer has argued for the U.S. that such a proposition would have the opposite effect, leading to less regional content than vehicles currently have and fewer manufacturing jobs in the U.S., Canada, and Mexico.

The principals continue to differ on other critical issues, including trade dispute resolution mechanisms and sunset provisions. Canada and Mexico have jointly proposed to create a new investor-state dispute resolution system, but the U.S. has stated that it may opt out of the system. Regarding the sunset provision, the U.S. has proposed a rule that would terminate NAFTA every five years unless all three countries agree to renew.

One matter of particular interest that has yet to find resolution is the America first approach asserted by the U.S. with respect to the trucking and logistics industries. The U.S. has demanded that Mexico agree to a provision that could block drivers from Mexico from making deliveries beyond certain commercial zones near the border. Mexican-domiciled carriers may operate in the U.S. today, but that was not without a long-fought series of negotiations dating back to 1994. It was not until 2015 that the Federal Motor Carrier Safety Administration began accepting and processing applications for long-haul operating authority from Mexico-domiciled carriers in the U.S. Mexico has rejected any suggestion that would limit its drivers to border commercial zones as an attempt to restrict free trade across borders. Both sides remain at odds over this critical issue which could have a wide-ranging impact.

If a deal is not reached by the end of March, and the United States does not start withdrawal proceedings, the principals may extend negotiations into 2019. The next round of negotiations will be held in Mexico City from February 26 to March 6, which is the final scheduled round. Robert Lighthizer has stated that he hopes major breakthroughs will occur before those negotiations begin. Benesch will continue to monitor negotiations to provide monthly updates to our clients in the manufacturing, transportation and logistics, and related industries of any developments.

For more information on this topic, contact a member of [Benesch's Transportation & Logistics Practice Group](#).

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