

NAFTA Watch Newsletter Vol. 16 - The “Sunset” of Negotiations?

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

Negotiations among Mexico, Canada, and the United States in the month of May were the proverbial rollercoaster ride of the highs and lows that we have become all too accustomed to in these prolonged negotiations. In just a matter of days, the parties seemed to be on the path to an agreement-so much so that the leaders of the three countries planned an in-person meeting in Washington. Days later, however, heavy-handed negotiating by the United States appears to have backfired and NAFTA may be on the brink of collapse.

It was reported last week that Canadian Prime Minister Trudeau apparently believed that negotiations were going so well that he planned an in-person summit with President Trump and Mexican President Pena Nieto in Washington. The goal of that summit being to finalize a new NAFTA. That changed rapidly, however, when Trudeau received a surprise call from Vice President Pence.

On Tuesday, Pence called Trudeau, and it is reported that he conditioned the Washington summit on Canada and Mexico agreeing to a five-year sunset clause. As explained in our prior newsletters, such a clause would effectively require the three parties to renew NAFTA every five years. If not renewed, the trade agreement would automatically terminate. Like Canada and Mexico, the majority of the business community reportedly opposes a sunset clause as it would inject uncertainty into the market, effectively transforming the 20-plus-year agreement into a short-term trade pact. Unable to agree to that condition, Trudeau abruptly cancelled his planned trip to Washington.

Then, on Thursday, whether in reaction to the cancelled summit or as a hardball negotiation tactic, Trump unexpectedly slapped steel and aluminum tariffs on Canada and Mexico, thus further incensing the countries and complicating NAFTA talks. With the three countries now seemingly farther apart than ever on the future of NAFTA-together with the arduous timeline it will take for Congress to approve a modified NAFTA (should a deal ever be reached)-it is becoming increasingly unlikely that a NAFTA deal will be approved this year. But if the last two weeks of this roller coaster ride have taught us anything, it is not to jump to conclusions too quickly (just like the on-again-off-again North Korean summit). As we know, the roller coaster ride could end at any time (or with any tweet).

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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