

NAFTA Watch Newsletter Vol. 9 – NAFTA Renegotiation

Part 3: A Pro-American Agenda or a “Troubling” Approach?

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This publication is our ninth 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”).

The fourth of seven planned rounds of NAFTA negotiations concluded on October 17. The negotiations, conducted in Washington, D.C., took place over seven days—two days longer than originally scheduled. The outcome of the fourth round was not particularly optimistic with the parties seemingly leaving more entrenched than at the outset, possibly signaling that a U.S. withdrawal from NAFTA may be more than an idle threat or a negotiation tactic.

Some of the U.S. demands articulated during the fourth round of negotiations were categorized by observers as protectionist in nature. Canada’s Foreign Minister called the demands “troubling” and accused the U.S. of advocating a “winner takes all” approach. For example, in our prior installments, we discussed the Trump Administration’s desire to increase NAFTA’s rules of origin in the automotive industry. Those rules require that at least 62.5% of the parts sold in a vehicle in North America must come from one of the three NAFTA countries. The U.S. has now given more specificity to that issue, demanding that the 62.5% figure be increased to 85%. Further, U.S. negotiators have demanded that at least 50% of those parts originate in the U.S. to avoid a 2.5% tariff. Canada and Mexico have purportedly rebuffed those demand.

Besides the rules of origin disputes, the three NAFTA countries disagree on other issues. Of particular contention at the fourth round of negotiations was the U.S.’s demand for a so-called “sunset clause” to NAFTA. If such a clause was approved, it would effectively require the three parties to renew NAFTA every five years. If not renewed, the trade agreement would automatically terminate. Canada and Mexico have also purportedly rejected that demand. Moreover, the business community opposes a sunset clause as it would inject uncertainty into the market, effectively transforming the 23-year-old agreement into a short-term trade pact.

As the U.S. becomes more entrenched in its demands, industry groups have become more vocal. For example, at the end of the fourth round, the American Trucking Association, in concert with its Canadian and Mexican cohorts—the Canadian Trucking Alliance and Cámara Nacional del Autotransporte de Carga—issued a joint statement supporting a unified modernization of NAFTA which would mutually benefit all three nations.

Whether the U.S. heeds the advice of industry groups or continues what Canada has painted as “winner takes all” approach will be seen in the fifth round of negotiations scheduled to occur in Mexico City from November 17-21, and thereafter, as talks are now scheduled to continue into the first quarter of 2018. 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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