

OFFICE *of the* UNITED STATES TRADE REPRESENTATIVE

EXECUTIVE OFFICE OF THE PRESIDENT

Summary of Objectives for the NAFTA Renegotiation

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Introduction

The North American Free Trade Agreement (NAFTA) entered into force over 23 years ago, and since that time, the U.S. economy and global trading relationships have undergone substantial changes.

The America that existed when NAFTA was signed is not the America that we see today. Some Americans have benefited from new market access provided by the Agreement. It contributed to the linking of the continent through trade, while at the same time NAFTA provided much needed market access for American farmers and ranchers.

But NAFTA also created new problems for many American workers. Since the deal came into force in 1994, trade deficits have exploded, thousands of factories have closed, and millions of Americans have found themselves stranded, no longer able to utilize the skills for which they had been trained. For years, politicians promising to renegotiate the deal gave American workers hope that they would stop the bleeding. But none followed up.

In June 2016, then-candidate Donald J. Trump made a promise to the American people: he would renegotiate NAFTA or take us out of the agreement. As President, he immediately started work to fulfill that promise. The first NAFTA consultations began just a few weeks after the President took office.

On May 18th, President Trump became the first American president to begin renegotiating a comprehensive free trade agreement like NAFTA. At the direction of the President, and following more than three months of Administration consultations with Congress, U.S. Trade Representative Robert E. Lighthizer announced the Administration's intention to renegotiate the deal.

Since Ambassador Lighthizer notified Congress of the renegotiation, USTR has been conducting extensive consultations with Congress, stakeholders, and the public at large. President Trump is listening.

The Trump Administration has held dozens of meetings to solicit advice and input. In addition, USTR sought public comments and received more than 12,000 responses. Finally, USTR held three days of public hearings on the negotiations and heard from more than 140 witnesses, who provided testimony on a wide range of sectors, including agriculture, manufacturing, services, and digital trade. During this process, the Administration received valuable advice which has directly impacted the development of the negotiating objectives.

Now, in accordance with section 105(a)(1)(D) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, the Administration is providing this summary of specific objectives with respect to the NAFTA negotiations. These objectives reflect the valuable input

received during the preceding consultation period from Congress, advisory committees, other agencies, and members of the public. USTR will continue to consult with Congress and stakeholders and we will update these objectives as we advance our work on these important negotiations.

Once negotiations begin, the Administration intends to ensure truly fair trade by seeking the highest standards covering the broadest possible range of goods and services. A successful renegotiation of NAFTA will further the negotiating objectives of the United States, as described in this document, and will benefit the economies and populations of the United States and of our trading partners. The result will be a much better agreement for Americans.

The new NAFTA must continue to break down barriers to American exports. This includes the elimination of unfair subsidies, market-distorting practices by state owned enterprises, and burdensome restrictions of intellectual property. The new NAFTA will be modernized to reflect 21st century standards and will reflect a fairer deal, addressing America's persistent trade imbalances in North America. It will ensure that the United States obtains more open, equitable, secure, and reciprocal market access, and that our trade agreement with our two largest export markets is effectively implemented and enforced.

Under these objectives, a new NAFTA will give our farmers, ranchers, service providers, and other businesses new opportunities to grow their exports and reclaim American prosperity. But most importantly, the new NAFTA will promote a market system that functions more efficiently, leading to reciprocal and balanced trade among the parties.

If we succeed in achieving these objectives — maintaining and improving market access for American agriculture, manufacturing, and services — then we look forward to a seamless transition to the new NAFTA.

Summary of Specific Negotiating Objectives for the Initiation of NAFTA Negotiations

Trade in Goods:

- Improve the U.S. trade balance and reduce the trade deficit with the NAFTA countries.

Industrial Goods

- Maintain existing reciprocal duty-free market access for industrial goods and strengthen disciplines to address non-tariff barriers that constrain U.S. exports to NAFTA countries.

- Maintain existing duty-free access to NAFTA country markets for U.S. textile and apparel products and seek to improve competitive opportunities for exports of U.S. textile and apparel products while taking into account U.S. import sensitivities.

- Promote greater regulatory compatibility with respect to key goods sectors to reduce burdens associated with unnecessary differences in regulation, including through regulatory cooperation where appropriate.

Agricultural Goods

- Maintain existing reciprocal duty-free market access for agricultural goods.

- Expand competitive market opportunities for U.S. agricultural goods in NAFTA countries, substantially equivalent to the competitive opportunities afforded foreign exports into the U.S. market, by reducing or eliminating remaining tariffs.

- Seek to eliminate non-tariff barriers to U.S. agricultural exports including discriminatory barriers, restrictive administration of tariff rate quotas, other unjustified measures that unfairly limit access to markets for U.S. goods, such as cross subsidization, price discrimination, and price undercutting.

- Provide reasonable adjustment periods for U. S. import sensitive agricultural products, engaging in close consultation with Congress on such products before initiating tariff reduction negotiations.

- Promote greater regulatory compatibility to reduce burdens associated with unnecessary differences in regulation, including through regulatory cooperation where appropriate.

Sanitary and Phytosanitary Measures (SPS):

- Provide for enforceable SPS obligations that build upon WTO rights and obligations, including with respect to science based measures, good regulatory practice, import checks, equivalence, and regionalization, making clear that each country can set for itself the level of protection it believes to be appropriate to protect food safety, and plant and animal health in a manner consistent with its international obligations.

- Establish a mechanism to resolve expeditiously unwarranted barriers that block the export of U.S. food and agricultural products.

- Establish new and enforceable rules to ensure that science-based SPS measures are developed and implemented in a transparent, predictable, and non-discriminatory manner.

- Improve communication, consultation, and cooperation between governments to share information and work together on SPS issues in a transparent manner, including on new technologies.

- Provide for a mechanism for improved dialogue and cooperation to address SPS issues and facilitate trade where appropriate and possible.

Customs, Trade Facilitation, and Rules of Origin:

Customs and Trade Facilitation:

- Build on and set high standards for implementation of WTO agreements involving trade facilitation and customs valuation.

- Increase transparency by ensuring that all customs laws, regulations, and procedures are published on the Internet as well as designating points of contact for questions from traders.

- Ensure that, to the greatest extent possible, shipments are released immediately after determining compliance with applicable laws and regulations and provide for new disciplines on timing of release, automation, and use of guarantees.

- Provide for streamlined and expedited customs treatment for express delivery shipments, including for shipments above any de minimis threshold. Provide for a de minimis shipment value comparable to the U.S. de minimis shipment value of $800.

- Ensure that NAFTA countries administer customs penalties in an impartial and transparent manner, and avoid conflicts of interest in the administration of penalties.

- Provide for automation of import, export, and transit processes, including through supply chain integration; reduced import, export, and transit forms, documents, and formalities; enhanced harmonization of customs data requirements; and advance rulings regarding the treatment that will be provided to a good at the time of importation.

- Provide for both administrative and judicial appeal of customs decisions.

- Provide for electronic payment of duties, taxes, fees, and charges imposed on or in connection with importation or exportation.

- Provide for the use of risk management systems for customs control and post-clearance audit procedures to ensure compliance with customs and related laws.

- Provide for disciplines on the use of customs brokers, preshipment inspection, and the use of reusable containers.

- Establish a committee for Parties to share information and cooperate on trade priorities with a view to resolving inconsistent treatment of commercial goods.

Rules of Origin:

- Update and strengthen the rules of origin, as necessary, to ensure that the benefits of NAFTA go to products genuinely made in the United States and North America.

- Ensure the rules of origin incentivize the sourcing of goods and materials from the United States and North America.

- Establish origin procedures that streamline the certification and verification of rules of origin and that promote strong enforcement, including with respect to textiles.

- Promote cooperation with NAFTA countries to ensure that goods that meet the rules of origin receive NAFTA benefits, prevent duty evasion, and combat customs offences.

Technical Barriers to Trade (TBT):

- Require NAFTA countries to apply decisions and recommendations adopted by the WTO TBT Committee that apply, *inter alia*, to standards, conformity assessment, transparency, and other areas.

- Include strong provisions on transparency and public consultation that require the NAFTA countries to publish drafts of technical regulations and conformity assessment procedures, allow stakeholders in other countries to provide comments on those drafts, and require

authorities to address significant issues raised by stakeholders and explain how the final measure achieves the stated objectives.

- Ensure national treatment of conformity assessment bodies without conditions or limitations and encourage the use of international conformity assessment recognition arrangements to facilitate the acceptance of conformity assessment results.

- Establish an active TBT Chapter Committee that will discuss bilateral and third party specific trade concerns, coordination of regional and multilateral activities, regulatory cooperation, and implementing Good Regulatory Practices.

Good Regulatory Practices:

- Obtain commitments that can facilitate market access and promote greater compatibility among U.S., Canadian, and Mexican regulations, including by:

    - Ensuring transparency and accountability in the development, implementation, and review of regulations, including by publication of proposed regulations;

    - Providing meaningful opportunities for public comment in the development of regulations;

    - Promoting the use of impact assessments and other methods of ensuring regulations are evidence-based and current, as well as avoiding unnecessary redundancies; and

    - Applying other good regulatory practices.

Trade in Services, Including Telecommunications and Financial Services:

Trade in Services:

- Secure commitments from NAFTA countries to provide fair and open conditions for services trade, including through:

    - Rules that apply to all services sectors, including rules that prohibit:

        - Discrimination against foreign services suppliers;

        - Restrictions on the number of services suppliers in the market; and

    - Requirements that cross-border services suppliers first establish a local presence,

- Specialized sectoral disciplines, including rules to help level the playing field for U.S. delivery services suppliers in the NAFTA countries; and

- Where any exceptions from core disciplines are needed, the negotiation, on a negative list basis, of the narrowest possible exceptions with the least possible impact on U.S. firms.

- Improve the transparency and predictability of the regulatory procedures in the NAFTA countries.

Telecommunications:

- Promote competitive supply of telecommunications services by facilitating market entry through transparent regulation and an independent regulator.

- Secure commitments to provide reasonable network access for telecommunications suppliers through interconnection and access to physical facilities and scarce resources.

- Establish provisions protecting telecommunications services suppliers' choice of technology.

Financial Services:

- Expand competitive market opportunities for United States financial service suppliers to obtain fairer and more open conditions of financial services trade.

- Improve transparency and predictability in their respective financial services regulatory procedures.

- Ensure that the NAFTA countries refrain from imposing measures in the financial services sector that restrict cross-border data flows or that require the use or installation of local computing facilities.

Digital Trade in Goods and Services and Cross-Border Data Flows:

- Secure commitments not to impose customs duties on digital products (e.g., software, music, video, e-books).

- Ensure non-discriminatory treatment of digital products transmitted electronically and guarantee that these products will not face government-sanctioned discrimination based on the nationality or territory in which the product is produced.

- Establish rules to ensure that NAFTA countries do not impose measures that restrict cross-border data flows and do not require the use or installation of local computing facilities.

- Establish rules to prevent governments from mandating the disclosure of computer source code.

Investment:

- Establish rules that reduce or eliminate barriers to U.S. investment in all sectors in the NAFTA countries.

- Secure for U.S. investors in the NAFTA countries important rights consistent with U.S. legal principles and practice, while ensuring that NAFTA country investors in the United States are not accorded greater substantive rights than domestic investors.

Intellectual Property:

- Promote adequate and effective protection of intellectual property rights, including through the following:

    - Ensure accelerated and full implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), particularly with respect to meeting enforcement obligations under TRIPS.

    - Ensure provisions governing intellectual property rights reflect a standard of protection similar to that found in U.S. law.

    - Provide strong protection and enforcement for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property, including in a manner that facilitates legitimate digital trade.

    - Prevent or eliminate discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights.

    - Ensure standards of protection and enforcement that keep pace with technological developments, and in particular ensure that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works.

  - Provide strong standards enforcement of intellectual property rights, including by requiring accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms.

  - Prevent or eliminate government involvement in the violation of intellectual property rights, including cybertheft and piracy.

- Secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection.

- Respect the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001, and to ensure that trade agreements foster innovation and promote access to medicines.

- Prevent the undermining of market access for U.S. products through the improper use of a country's system for protecting or recognizing geographical indications, including failing to ensure transparency and procedural fairness and protecting generic terms.

Transparency:

- Commit each Party to provide levels of transparency, participation, and accountability in the development of regulations and other government decisions that are comparable to those under U.S. law with respect to federal statutes and regulations. In particular, seek commitments:

  - To promptly publish laws, regulations, administrative rulings of general application, and other procedures that affect trade and investment;

  - To provide adequate opportunities for stakeholder comment on measures before they are adopted and finalized; and

  - To provide a sufficient period of time between final publication of measures and their entry into force.

- Seek standards to ensure that government regulatory reimbursement regimes are transparent, provide procedural fairness, are nondiscriminatory, and provide full market access for United States products.

State-Owned and Controlled Enterprises:

- Define SOEs on the basis of government ownership or government control through ownership interests, including situations of control through minority shareholding.

- Retain the ability to support SOEs engaged in providing domestic public services.

- Ensure that SOEs accord non-discriminatory treatment with respect to purchase and sale of goods and services.

- Ensure that SOEs act in accordance with commercial considerations with respect to such purchases and sales.

- Ensure that strong subsidy disciplines apply to SOEs, beyond the disciplines set out in the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement).

- Require that SOEs not cause harm to another Party through provision of subsidies.

- Require that SOEs not cause harm to the domestic industry of another Party via subsidized SOE investment.

- Ensure impartial regulation of SOEs, designated monopolies, and private companies.

- Provide jurisdiction to courts over the commercial activities of foreign SOEs (i.e., limited sovereign immunity).

- Allow Parties to request information related to the level of government ownership and control of a given enterprise, and the extent of government support.

- Develop fact-finding mechanism based on Annex 5 of the WTO SCM Agreement to help overcome the evidentiary problems associated with litigation on SOEs.

Competition Policy:

- Maintain rules that prohibit anticompetitive business conduct, as well as fraudulent and deceptive commercial activities that harm consumers.

- Establish or affirm basic rules for procedural fairness on competition law enforcement.

- Promote cooperation on competition enforcement-related matters.

Labor:

- Bring the labor provisions into the core of the Agreement rather than in a side agreement.

- Require NAFTA countries to adopt and maintain in their laws and practices the internationally recognized core labor standards as recognized in the ILO Declaration, including:

    - Freedom of association and the effective recognition of the right to collective bargaining;

    - Elimination of all forms of forced or compulsory labor;

    - Effective abolition of child labor and a prohibition on the worst forms of child labor; and

    - Elimination of discrimination in respect of employment and occupation.

- Require NAFTA countries to have laws governing acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

- Establish rules that will ensure that NAFTA countries do not waive or derogate from their labor laws implementing internationally recognized core labor standards in a manner affecting trade or investment between the parties.

- Establish rules that will ensure that NAFTA countries do not fail to effectively enforce their labor laws implementing internationally recognized core labor standards and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health laws through a sustained or recurring course of action in a matter affecting trade or investment between the parties.

- Require that NAFTA countries take initiatives to prohibit trade in goods produced by forced labor, regardless of whether the source country is a NAFTA country.

- Provide access to fair, equitable, and transparent administrative and judicial proceedings.

- Ensure that these labor obligations are subject to the same dispute settlement mechanism that applies to other enforceable obligations of the Agreement.

- Establish a means for stakeholder participation, including through public advisory committees, as well as a process for the public to raise concerns directly with NAFTA governments if they believe a NAFTA country is not meeting its labor commitments.

- Establish or maintain a senior-level Labor Committee, which will meet regularly to oversee implementation of labor commitments, and include a mechanism for cooperation and coordination on labor issues, including opportunities for stakeholder input in identifying areas of cooperation.

Environment:

- Bring the environment provisions into the core of the Agreement rather than in a side agreement.

- Establish strong and enforceable environment obligations that are subject to the same dispute settlement mechanism that applies to other enforceable obligation of the Agreement.

- Establish rules that will ensure that NAFTA countries do not to waive or derogate from the protections afforded in their environmental laws for the purpose of encouraging trade or investment.

- Establish rules that will ensure that NAFTA countries do not fail to effectively enforce their environment laws through a sustained or recurring course of action in a matter affecting trade or investment between the parties.

- Require NAFTA countries to adopt and maintain measures implementing their obligations under select Multilateral Environment Agreements (MEAs) to which the NAFTA countries are full parties, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

- Establish a means for stakeholder participation, including commitments for public advisory committees, and a process for the public to raise concerns directly with its government if they believe it is not meeting its environment commitments.

- Require NAFTA countries to ensure access to fair, equitable and transparent administrative and judicial proceedings for enforcing their environmental laws, and provide appropriate sanctions or remedies for violations of their environmental laws.

- Provide for a framework for conducting, reviewing, and evaluating cooperative activities that support implementation of the environment commitments, and for public participation in these activities.

- Establish or maintain a senior-level Environment Committee, which will meet regularly to oversee implementation of environment commitments, with opportunities for public participation in the process.

- Combat illegal fishing, unreported, and unregulated (IUU) including by implementing port state measures and supporting increased monitoring and surveillance.

- Establish rules to prohibit harmful fisheries subsidies, such as those that contribute to overfishing and IUU fishing, and pursue transparency in fisheries subsidies programs.

- Promote sustainable fisheries management and long-term conservation of marine species, including sharks, sea turtles, seabirds and marine mammals.

- Protect and conserve flora and fauna and ecosystems, including through action by countries to combat wildlife trafficking, including timber trafficking.

Anti-Corruption:

- Secure provisions committing each Party to criminalize government corruption, to take steps to discourage corruption, and to provide adequate penalties and enforcement tools in the event of prosecution of persons suspected of engaging in corrupt activities. In particular by:

    - Requiring the adoption or maintenance of requirements for companies to maintain accurate books and records, which facilitate the detection and tracing of corrupt payments;

    - Encouraging the establishment codes of conduct to encourage high ethical standards among public officials; and

    - Requiring parties to disallow the deduction of corrupt payments for income tax purposes.

Trade Remedies:

- Preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws.

- Eliminate the NAFTA global safeguard exclusion so that it does not restrict the ability of the United States to apply measures in future investigations.

- Eliminate the Chapter 19 dispute settlement mechanism.

- Seek a separate domestic industry provision for perishable and seasonal products in AD/CVD proceedings.

- Exclude state-owned enterprises as part of the domestic industry in AD/CVD proceedings.

- Facilitate the ability to impose measures based on third country dumping.

- Promote cooperation among the trade remedies administrators of the NAFTA countries, particularly with regards to the sharing of information that would improve the ability of administrators to effectively monitor and address trade remedies violations, such as through self-initiation.

- Strengthen existing procedures and create new procedures to address AD/CVD duty evasion, including the ability to conduct AD/CVD verification visits.

- Establish transparency and due process obligations reflected in U.S. AD/CVD laws, regulations, and practice.

- Establish an early warning import monitoring system for agreed sensitive products from non-NAFTA countries.

Government Procurement:

- Increase opportunities for U.S. firms to sell U.S. products and services into the NAFTA countries.

- Establish fair, transparent, predictable, and non-discriminatory rules to govern government procurement in the NAFTA countries, including rules mirroring existing U.S. government procurement practices such as:

    - Publishing information on government procurement opportunities in a timely manner;

    - Ensuring sufficient time for suppliers to obtain tender documentation and submit bids;

    - Ensuring that procurement will be handled under fair procedures;

    - Ensuring that contracts will be awarded based solely on the evaluation criteria specified in the notices and tender documentation; and

    - Providing impartial administrative or judicial review authority to review challenges or complaints.

- Exclude sub-federal coverage (state and local governments) from the commitments being negotiated. Keep in place domestic preferential purchasing programs such as:

  - Preference programs for small businesses, women and minority owned businesses (which includes Native Americans), service-disabled veterans, and distressed areas;

  - "Buy America" requirements on Federal assistance to state and local projects, transportation services, food assistance, and farm support; and

  - Key Department of Defense procurement.

- Maintain broad exceptions for government procurement regarding:

  - National security;

  - Measures necessary to protect public morals, order, or safety;

  - Protecting human, animal, or plant life or health; and

  - Protecting intellectual property.

- Maintain ability to provide for labor, environmental, and other criteria to be included in contracting requirements.

Small- and Medium-Sized Enterprises:

- Secure commitment by NAFTA countries to provide information resources to help small businesses navigate FTA requirements for exporting to the NAFTA markets.

- Cooperate on SME issues of mutual interest.

- Establish an SME Committee to ensure that the needs of SMEs are considered as the Agreement is implemented in order for SMEs to benefit from new commercial opportunities.

Energy:

- Preserve and strengthen investment, market access, and state-owned enterprise disciplines benefitting energy production and transmission and support North American energy security and independence, while promoting continuing energy market-opening reforms.

Dispute Settlement:

- Encourage the early identification and settlement of disputes through consultation and other mechanisms.

- Establish a dispute settlement mechanism that is effective, timely, and in which panel determinations are based on the provisions of the Agreement and the submissions of the parties and are provided in a reasoned manner.

- Establish a dispute settlement process that is transparent by:

    - Requiring that parties' submissions be made publicly available;

    - Requiring that hearings be open to the public;

    - Requiring that final determinations by a panel be made publicly available; and

    - Ensuring that non-governmental entities have the right to request making written submissions to a panel.

- Have provisions that encourage compliance with the obligations of the Agreement.

General Provisions:

- Include general exceptions that allow for the protection of legitimate U.S. domestic objectives, including the protection of health or safety and essential security, among others.

Currency:

- Through an appropriate mechanism, ensure that the NAFTA countries avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage.