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Where the U.S., Canada and Mexico Stand on NAFTA

Spurred by the Trump administration’s notification to Congress in May that it intended to overhaul the NAFTA, the United States, Canada and Mexico are at the beginning stages of renegotiating the trade pact.

In July, the USTR released an 18-page document of more than 100 specific objectives. Canada and Mexico have released fewer, but broader objectives. Canadian Foreign Minister Chrystia Freeland laid out some objectives in an Aug. 14 speech while Mexican Economy Minister Ildefonso Guajardo Villarreal released a list of objectives in early August. Some objectives pertain to specific NAFTA provisions, while others call for new measures on a range of topics including labor, the environment and currency manipulation. If upcoming talks are not successful, President Trump has indicated that the United States will withdraw from the 23-year-old agreement.

What Each Country Plans to Achieve in Renegotiating NAFTA

By part and chapter:

PART ONE,
CHAPTER 1
Objectives

Establishes the free trade area and lays out objectives.



U.S.: Seek an expanded agreement with new opportunities for American businesses, that reduce the United States trade deficit with Canada and Mexico.



Canada: Make NAFTA modern and progressive, with CETA, Canada-EU trade agreement, as model.



Mexico: Preserve and expand market access, particularly for agricultural products. Reduce barriers to trade, set clear rules and efficient processes.

PART TWO
Trade in goods

Comprises chapters three through eight; measures on trade in goods.

U.S.: Maintain existing markets and duty-free access for industrial and agricultural goods; reduce cross-border regulatory burden; eliminate agricultural barriers to trade.

Reduce technical barriers to trade by adhering to WTO standards; expand transparency and public consultation.

Implement Good Regulatory Practices that increase market access and compatibility, via measures including transparency, public comment and impact assessments.

CHAPTER 4
Rules of origin

How to determine if something is an originating good and thus qualified for preferential tariff treatment.

U.S.: Strengthen origin rules and develop procedures to ensure originating goods are genuinely made in the free trade area.

CHAPTER 5
Customs procedures

Preferential tariff treatment of originating goods; certificates of origin.

U.S.: Procedural improvements, including streamlining inspection and compliance to ensure transparency and efficient customs protocol.

Mexico: Improve customs procedures and make NAFTA trade more predictable and responsive.

CHAPTER 6
Energy and basic petrochemicals

Underscores the need for domestic energy industries while fostering liberalization.

U.S.: Support domestic industries while pursuing open energy markets.

Mexico: Expand opportunities for its energy industry by updating chapter’s scope.

CHAPTER 7
Agriculture, sanitary and phytosanitary measures

Domestic agriculture support allowances; sets international standards as baseline for sanitary and phytosanitary measures.

U.S.: Establish and enforce new requirements to ensure measures are based in science and are aligned with WTO rights and obligations.

PART FOUR
Government procurement

Processes for valuing contracts, accepting bids and reviewing tenders, and how firms can challenge bids.

U.S.: Ensure equal government procurement opportunities for U.S. firms; protect several U.S. programs including “Buy America” requirements, DoD procurement processes and existing exceptions.

Canada: Continue liberalizing procurement, including reducing local-content provisions.

Mexico: Increase certainty in procurement processes.

PART FIVE
Investment, services and related matters

Comprises chapters 11–16; measures on trade in services and investment.

U.S.: Prevent discrimination against or restrictions on foreign suppliers; increase regulatory transparency, predictability.

CHAPTER 11
Investment

Investor protections; dispute settlement procedure for Party and investor of another Party.

U.S.: Reduce barriers to U.S. investment and increase investor rights in the free trade area.

Mexico: Maintain nondiscrimination treatment and align with international standards.

CHAPTER 13
Telecommunications

Protects access to telecom services and enhanced or value-added services. Parties must prevent anticompetitive behavior.

U.S.: Protect telecommunications services and suppliers with transparent, independent regulator and secure and reasonable network access.

Mexico: Integrate telecommunications services across NAFTA countries to take advantage of sector reform.

CHAPTER 14
Financial services

Protects cross-border financial services and the right to offer similar financial services as other Parties’ institutions.

U.S.: Increase competitive opportunities for financial services suppliers; reduce restrictions on cross-border data flows; improve regulatory transparency and predictability.

Mexico: Expand access to financial services markets.

CHAPTER 15
Competition policy, monopolies and state enterprises

Compels Parties to proscribe and remedy anticompetitive conduct within their borders. Protects Parties’ rights to designate monopolies and maintain state enterprises.

U.S.: Clarify rules and definitions for state-owned and controlled enterprises; limit any harm to domestic industries; increase transparency of ownership and control.

Maintain existing monopoly rules and promote cooperation; establish rules for competition law enforcement.

Mexico: Consolidate state enterprise law to increase efficiency.

CHAPTER 16
Temporary Entry for Business Persons

Allows for business persons’ temporary entry from one Party to another. Does not restrict Parties’ right to enforce immigration laws.

Canada: Streamline temporary entry process and expand number of people who are able to use temporary entry.

Mexico: Streamline temporary entry process, and expand number of people who are able to use temporary entry.

PART SIX
Intellectual property

Protects IP across free trade area, and reserves Parties’ rights to establish more stringent law.

U.S.: Align IP chapter with related WTO agreement; keep pace with changes in U.S. IP law and technological developments; prevent government involvement in IP rights violations.

Mexico: Continue to promote IP protections while balancing innovators’ and the public’s rights.

PART SEVEN
Administrative, institutional provisions

Administrative processes including publication of new regulations and law; anti-dumping and countervailing duty investigations; dispute settlement processes.

U.S.: Establish commitment to transparency and accountability in regulation, including publishing laws and providing sufficient opportunity for public comments.

Mexico: Improve coordination between NAFTA regulators; establish best practices for rulemaking; reduce regulatory barriers to trade.

CHAPTER 19
Review and dispute settlement in anti-dumping, countervailing duty matters

Parties retain right to oversee domestic procedures, but if the dispute is between two Parties, they must submit to binational review.

U.S.: Eliminate Chapter 19 dispute settlement; retain U.S. rights to enforce trade laws; strengthen procedures for investigating and evaluating dumping and unfair subsidies.

Canada: Freeland stated she is committed to preserving the Chapter 19 dispute mechanism and will be at odds with the U.S. on the issue.

CHAPTER 20
Institutional arrangements and dispute settlement procedures

Creates the Free Trade Commission. Outlines process for settling disputes over NAFTA interpretation.

U.S.: Ensure dispute settlement process is transparent and timely, with emphasis on encouraging early identification and settlement before arbitration.

Canada: Reform to investor-state dispute settlement process to protect governments’ right to protect citizens.

Mexico: Modernize dispute settlement mechanisms for all types of disputes so they are more responsive and transparent.

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New Proposals or Objectives Not Currently in NAFTA

Note: Mexican trade objectives come from unofficial translation of Mexican government documents.

Labor

U.S.: Create a Labor chapter in NAFTA; commit the free trade area to core labor standards. Require countries to establish workplace laws on minimum wage, work hours and health and safety standards. Establish a NAFTA Labor Committee.

Canada: Incorporate “strong labor safeguards” into NAFTA.

Mexico: Promote workforce development programs; align measures to international standards.

Environment

U.S.: Create an Environment chapter in NAFTA, with a process to resolve environmental disputes. Establish environmental protection framework and hold NAFTA countries to the Multilateral Environmental Agreements.

Canada: Include “enhanced environmental provisions” to prevent weak environmental protections; support measures to address climate change.

Mexico: Cooperate with other NAFTA countries on issues related to trade and the environment; improve border infrastructure.

Corruption

Commit to criminalizing government corruption, including establishing penalties and enforcement mechanisms to fight corrupt activities.

Mexico: Establish anti-corruption measures to protect trade and investment.

Digital economy

Establish rules to ensure nondiscriminatory, open digital trade and cross-border data flows.

Mexico: Promote the digital economy.

Small- and medium-sized enterprises

Continue supporting SMEs and establish a committee to help SMEs benefit from open markets and new commercial opportunities.

Mexico: Foster better integration of SMEs in regional supply chains.

Miscellaneous

Establish a mechanism to prevent unfair currency manipulation.

Create exceptions for U.S. domestic obligations such as public health and safety.

Canada: Include chapters on gender rights and indigenous rights.

Sources: USTR, NAFTA, Government of Canada, Government of Mexico, OECD, Law360

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