

NAFTA UPDATE

It appears that few of the critical issues have been resolved in the first two rounds of negotiations. Most of the press reports and insider commentary indicates that the process is not going particularly well, which was confirmed by two recent events. On Friday, October 6, 2017, the announcement by the U.S.' chief negotiator that vehicles would have to have a specific level of US content as opposed to NAFTA content is a significant departure from previous positions held by the United States, though no specifics were provided. On October 11, 2017 Prime Minister Trudeau's visit included threats from Mr. Trump to withdraw from NAFTA.

The U.S. seems intent on altering the country of origin rules and U.S. content requirements. These proposals seem like a reasonable and rational approach in an effort to presumably stimulate the creation of manufacturing jobs in the United States. I would emphasize "presumably", as there is no clear indication that such rules would actually result in increased job creation in the U.S. There are several reasons for this including substantially increased automation with the resulting requirement for higher education and training of workers, as well as the consequential reduction in the workforce from automation.

The proposals described above could turn this process on its head, at least for vehicles, and will disrupt existing supply chains resulting higher costs, at least in the short term.

On October 2nd and 3rd, I attended the semi-annual Can-Am Border Trade Alliance conference in Washington (the other conference is held in Ottawa in the spring of the year). The array of speakers addressed the two most important issues facing our region. The first topic, of course, was NAFTA and the ongoing negotiations. Former Canadian Ambassador, Gary Doer spoke at length on his perception of where the negotiations were going, and the great concerns that Canadians have with this process particularly in light of the recent Bombardier decision. Others who spoke included Wayne Easter, MP and Alex Greco from GS1 Canada. We had several presentations directed to the functioning of the border, as opposed to the philosophical disputes that exists between Washington, Ottawa and Mexico.

In the course of the conference, I interviewed Congresswomen Stefanik on issues related to NAFTA and the US/Canadian border, and participated as a panel whose members included amongst others, Ambassador Gary Doer, Ambassador David Wilkin, Ambassador David Noriega, and Tom Witkowski, retired Commissioner of CBP.

Many of the participants and presenters from the U.S. and Canada expressed concern about what would happen if NAFTA was terminated, in particular, what would replace it? For instance, we discussed whether or not TN Visas would still exist, and it appears there is no independent statutory basis for such visas outside of NAFTA. Would the provisions of the Canadian/American Free Trade Agreement (CAFTA) come back into force? Is action by Congress necessary, either to terminate NAFTA, or to restart CAFTA? Clearly, many perplexing and complex questions are being driven by an administration, in my view, which does not understand Canada/US trade, and jumped on the anti-trade bandwagon primarily as a vehicle to punish Mexico for illegal immigration (which we would note statistically has dropped dramatically and now those crossing the border tend to be central Americans).

I would offer two proposals for consideration understanding they lack political correctness.

1. North America should be the region of origin, as it would create a better trade environment, reducing the level of regulation necessary to satisfy NAFTA eligibility; and
2. We should focus on labor fluidity (not illegal immigration, but filling those jobs that we can't in the US) will in the long run positively impact trade and wealth; and

3. We must remember we need to remain competitive with the EU, Southeast Asia, and eventually Africa. We can't stand alone.

It is anyone's guess what happens in these negotiations. Unfortunately, Mr. Trump could wake up one day and decide that he is angry at Prime Minister Trudeau and communicate to his staff that he wishes to terminate NAFTA, then the question becomes, do cooler more informed heads prevail?