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Update on NAFTA Renegotiations

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The North American Free Trade Agreement (NAFTA) has been in the news for the last year-and-a-half; in the summer of 2016, Presidential candidate Trump vowed from the campaign trail, to renegotiate the "worst trade deal ever." Candidate Trump also announced at an October 2016 campaign rally in Michigan that he would use his power as President to exercise Article 2205 of NAFTA to pull out of the agreement if a renegotiation failed. It was no accident this announcement happened in Michigan—several of the U.S. NAFTA renegotiations revolve around the U.S. auto industry. The fourth round of negotiations concluded last month and the three nations are reportedly far from reaching an agreement; distance based on what all three countries are seeking in these negotiations. To help better understand the negotiations, the following is a brief historical background on NAFTA.

NAFTA is trilateral trade agreement among the United States, Canada, and Mexico and the deal has been in place for 23 years (Global Training Center). The path to NAFTA began in 1980 with the intent to reduce trade costs, increase business investments, and make North America more competitive in a global market. President Ronald Reagan proposed a North American common market during his campaign. In 1984, the U.S. Congress passed a key ingredient for negotiating trade agreements called the Trade and Tariff Act. This gave the President what is referred to as "fast-track authority" because it authorizes the President to negotiate trade agreements without direct involvement from Congress. Congress still retains the ultimate authority to ratify trade agreements or reject them. Fast track authority limits the ability for Congress to propose amendments to change elements of the agreement and it limits the use of procedural rules, such as the filibuster, to delay it.

The precursor to NAFTA was a bilateral agreement with Canada signed in 1988, called the Canada-U.S. Free Trade Agreement. This agreement went into effect January 1, 1989. President George H.W. Bush then began negotiations with Mexico for a liberalized trade agreement between the two countries. In 1991, Canada requested a trilateral agreement which became NAFTA; leaders of the three countries signed the deal in 1992. In 1993, concerns about the liberalization of labor and environmental regulation led to two addendums that were adopted and attached to the agreement. With those added, Congress ratified the agreement and President Bill Clinton signed the final, Congressionally-approved agreement into law. NAFTA entered into force on January 1, 1994 (Villarreal and Fergusson, 2014).

The decade-long process of arriving at NAFTA granted "most favored nation" status to all co-signers, which means countries must give all parties equal treatment, including over foreign investment. A nation cannot provide better treatment to domestic investors, nor can they offer a better deal to non-NAFTA investors. NAFTA also eliminated tariffs on most imports and exports between the member nations by 2008. Certain sensitive agricultural products -- dairy, poultry and eggs in Canada and sugar in the United States -- received special treatment, however, with tariffs phased out over the course of 15 years (Villareal and Fergusson, 2014). For the preferential tariff treatment under NAFTA, exporters must certify that the goods qualify using certificates of origin; only exports that originate in a NAFTA country qualify (U.S. Customs and Border Patrol). Countries must also respect and ensure that intellectual property rights (patents, trademarks, and copyrights) don't interfere with trade.

As was expected, the removal of tariffs resulted in rapid growth of the trade between member nations, especially between the U.S. and Mexico. Canada is the U.S.'s number one destination for exported goods, followed by Mexico which is also the second largest supplier of goods to the U.S. (U.S. Trade Representative, Canada and Mexico). In fact, the U.S. accounts for 80% of Mexico's exported goods (Trading Economics).

Rapid trade growth between the U.S. and Mexico is at the center of most opposition to NAFTA; the U.S. went from having a small trade surplus pre-NAFTA to an increasing deficit (Villarreal and Fergusson). The current U.S. administration has stated a goal of improving the U.S. trade balance and reduce deficits with both members. To meet this objective, the U.S. is arguing for stronger rules of origin to ensure these regulations incentivize the sourcing of goods and materials from the U.S. and North America.

The U.S. wants to eliminate non-tariff barriers to U.S. agriculture and provide reasonable adjustment periods for import-sensitive agriculture products. The U.S. seeks to codify the previously mentioned labor and environmental addendums into the main agreement and increasing labor standards. The latter is specifically intended to better align Mexican standards with U.S. and Canadian standards. Other objectives include: reducing/eliminating barriers to U.S. investment in all sectors in NAFTA countries; creating a mechanism to ensure NAFTA countries avoid manipulating exchange rates to gain an unfair competitive advantage; and eliminating the existing dispute-settlement mechanism for anti-dumping. The full 17-page list of U.S. demands and objectives is available from the U.S. Trade Representative (Summary of Objectives).

The primary objective in the NAFTA renegotiations for both Canada and Mexico is to ensure the U.S. doesn't impose tariffs on their products or make doing so easier in the future. Canada also opposes eliminating the anti-dumping dispute mechanism as this allows them to bypass U.S. judicial review—a long and slow process—when the U.S. imposes anti-dumping tariffs on Canadian products. In addition, Canada also wants to ensure no country can weaken its environmental standards to attract investment, and support efforts against climate change. They also wish to see language on gender rights, freer movement of professionals and expanded procurement rules. NAFTA also lists professions where people can easily get a visa to work across the border, however, the list is old and doesn't include tech jobs. Canada has also been trying to eliminate "Buy American" rules for construction jobs at the state and local level; a policy President Trump championed in his campaign.

Canada also wants reforms to the provisions for suing sovereign governments. A Canadian study indicated that it was the country sued the most under NAFTA (Sinclair). The NAFTA provisions allow investors to sue foreign governments without first going through that country's court system. They were included to protect Canada and the U.S. from potential corruption in Mexico's judicial system. Intended to protect foreign investors from discrimination, most claims filed against Canada stem from their stronger environmental laws and standards. Such laws make it harder for foreign investors who operate under more lax standards in their home country from entering the Canadian market. Canada's response to these claims has been that they should be allowed to regulate in the public's best interest.

Mexico's primary sticking point involves labor regulations and the differences in pay for Mexican workers compared to the U.S. and Canada (Graham and Angulo, 2017). Other issues, however, like immigration and the border wall loom large in discussions (Rampton, 2017). Mexico seeks to strengthen North American competitiveness by maintaining preferential access for Mexican goods/services in NAFTA countries, especially agricultural products. Mexico wants to prevent rules and regulations that create unjustified barriers to free trade and to expand the categories for temporary entry of business people to encourage the freer movement of professionals. They also seek a more inclusive economy in which more regions, sectors, and firms can partake in globalization. Currently, six northern Mexican states are responsible for over 50% of Mexican exports and two sectors—automotive & electronics—represent 60% of exports (Soergel, 2017).

With the removal of trade restrictions, the North American economy has grown as a whole and all three nations have received some benefits under NAFTA. Since its implementation, trade has skyrocketed between member nations, nearly quadrupling from $293 billion in 1993 to $1.1 trillion in 2016, and not just in final goods (McBride and Sergie, 2017)). NAFTA has seen substantial integration of supply chains among members, with materials from Canada being sent to Mexico for production, and then sent to the U.S. for final assembly (for example in the auto industry). There has also been substantial growth in U.S. service exports and foreign investments.

With so much money exchanging hands between the three countries there is a lot at stake with these NAFTA negotiations. As previously discussed, U.S. agriculture is particularly dependent upon; Canada and Mexico are two of our biggest agricultural export markets (*farmdoc daily*, December 22, 2016 and April 28, 2017). Of particular concern, the agricultural sector is often the target of any retaliatory trade disputes (*farmdoc daily*, October 4, 2017). As such, American agriculture continues to monitor the NAFTA renegotiation process closely.

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