

# North American Free Trade Agreement: Notification for Renegotiation

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On May 18, 2017, the Trump Administration sent a 90-day notification to Congress of its intent to begin talks with Canada and Mexico to renegotiate the North American Free Trade Agreement (NAFTA) (see CRS In Focus IF10047, [North American Free Trade Agreement \(NAFTA\)](#)). Under U.S. Trade Promotion Authority (TPA) ([P.L. 114-26](#)), the President must consult with Congress before giving the required 90-day notice of his intention to start negotiations (see CRS In Focus IF10297, [TPP-Trade Promotion Authority \(TPA\) Timeline](#)). Newly confirmed U.S. Trade Representative (USTR), Ambassador Robert Lighthizer, met with the Members of the House Ways and Means Committee and Senate Finance Committee on May 16 and 17, respectively. Ambassador Lighthizer also met with Members of the House and Senate Advisory Groups on Negotiations on trade negotiations. These groups were created by TPA to provide additional opportunities for consultation with the committees of jurisdiction, as well as other committees with jurisdiction over potential subject matter in the trade agreement. Following the 90-day notice, and at least 30 days prior to the start of negotiations, USTR is to publish "a detailed and comprehensive summary of the specific objectives with respect to the negotiations, and a description of how the agreement, if successfully concluded, will further those objectives and benefit the United States." Based on the May 18 notification date, negotiations could start on August 16, 2017, at the earliest.

## Letter of Notification

The letter of notification from USTR Lighthizer states that the United States aims "to support higher-paying jobs in the United States and to grow the U.S. economy by improving U.S. opportunities under NAFTA." The letter notes that because NAFTA was negotiated 25 years ago, some chapters are outdated and do not reflect modern standards. For this reason, it states, the Administration's aim is to "modernize" NAFTA by updating provisions on intellectual property rights (IPR), regulatory practices, state-owned enterprises, digital trade, services, customs procedures, sanitary and phytosanitary measures, labor, environment and small and medium enterprises. The Administration states that it intends to work closely with Congress as it reviews elements of NAFTA and renegotiates changes, where appropriate, in a timely manner and with "substantive results."

Some [Members of Congress have expressed support](#) for opening trade talks with NAFTA partners and believe that NAFTA will benefit from "strengthening and modernization," but also contend that any efforts to abandon the main provisions of the agreement or impose burdensome restrictions with NAFTA partners "will have devastating economic consequences." Others have stated that any renegotiation should include new provisions that support U.S. manufacturing jobs, improve worker rights protection, and support increased transparency during the negotiations.

## "Modernizing" NAFTA

Key NAFTA provisions include market opening measures, IPR protection, investment provisions that removed significant foreign investment barriers in Mexico and ensured basic protections for NAFTA investors, as well as labor and environmental provisions. A modernization of NAFTA could include updated provisions, possibly similar to those in the proposed Trans-Pacific Partnership (TPP) agreement (see CRS In Focus IF10000, [TPP: Overview and Current Status](#)). For example, NAFTA could be changed to include a chapter on digital trade (see CRS In Focus IF10390, [TPP: Digital Trade Provisions](#)). The role of the Internet in international commerce has expanded dramatically since NAFTA's implementation over 20 years ago. While technological advancements have fundamentally changed how firms trade and do business across international borders, some companies argue that new barriers have also emerged, which existing trade rules fail to address. Other modifications could include the incorporation of updated dispute settlement provisions found in more recent U.S. FTAs and new rules of origin requirements.

Another possible area for modernization relates to labor and environmental provisions. In labor issues, NAFTA marked the first time that worker rights provisions were associated with an FTA. The TPP, from which the United States dropped out, includes stronger provisions in which parties must adopt, enforce, and not derogate from laws incorporating internationally recognized principles for the protection of worker rights, in a manner affecting trade and investment. It also contained stronger provisions on environmental protection, including adherence to certain environmental accords. NAFTA only includes provisions for parties to enforce their own labor or environmental laws.

## Other Issues Likely to be Raised

In regard to Canada, some discussions may involve dairy, softwood lumber or Buy American provisions. Canada administers a restrictive supply management system for dairy, poultry, and eggs, a program that was specifically excluded from NAFTA. U.S. dairy producers may seek greater market access into Canada. Possible negotiations could also address trade in softwood lumber (see CRS Report R42789, [Softwood Lumber Imports from Canada: Current Issues](#)). U.S. lumber producers claim they are at an unfair competitive disadvantage in the domestic market against Canadian lumber producers because of Canada's timber pricing policies. Another issue relates to Buy American policies in the United States. While Canadian firms are able to bid on a wide range of U.S. federal procurements through commitments made under NAFTA, they are excluded from "pass-through" procurements—state-tendered contracts using federal funds. Canada has been dissatisfied with application of these policies, while the United States may seek greater restrictions on the ability of Canadian and Mexican firms to access the U.S. procurement market.

Mexican government officials have expressed interest in modernizing NAFTA, while maintaining that the strong regional supply chains that were enhanced through NAFTA should not be disrupted. [Mexico's lead trade negotiator](#), on numerous occasions, has stated that Mexico would not consider any introduction of tariffs or quotas in the talks, and that it would walk away from the table if that were to happen. Mexican officials have also hinted that they may seek to broaden NAFTA negotiations to include bilateral or trilateral cooperation on various issues, including trade facilitation and security. Mexico is actively engaging in talks with other countries to decrease its reliance on the United States as a trading partner and is seeking to import more agricultural products from South America instead of the United States. It is possible that a renegotiation of NAFTA may address trucking provisions. The implementation of NAFTA trucking provisions arose as a major trade issue between the United States and Mexico in 2000 because the United States, due to safety concerns about Mexican trucks, delayed its trucking commitments. The two countries engaged in numerous talks regarding safety and operational issues. By 2015, the trucking issue had been resolved. The International Brotherhood of Teamsters subsequently filed a lawsuit over the implementation of the trucking provisions and may seek to revise NAFTA's trucking provisions under a potential renegotiation.