



Canadian Global Affairs Institute

CANADA & THE WORLD SPEAKER SERIES:

OPPORTUNITIES & CHALLENGES FOR WESTERN CANADA

Advancing Canadian Trade Interests with the New American Administration

TAKING STOCK OF TRUMP'S TRADE AGENDA



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Two excerpts from President Trump's inaugural address give a sense of what Canada will have to contend with as we look to maintain and strengthen our mutually beneficial economic relationship with the United States.

From this day forward, it's going to be only America first, America first. Every decision on trade, on taxes, on immigration, on foreign affairs will be made to benefit American workers and American families. We must protect our borders from the ravages of other countries making our products, stealing our companies and destroying our jobs.

...

We will build new roads, and highways, and bridges, and airports, and tunnels, and railways all across our wonderful nation. We will get our people off of welfare and back to work – rebuilding our country with American hands and American labor. We will follow two simple rules: Buy American and Hire American.

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- President Trump has made it clear that his administration intends to renegotiate the North American Free Trade Agreement, or to withdraw from it. His inaugural remarks give a sense of where the American negotiators will be coming from and it is not reassuring. This will be one tough negotiation for both Mexico and Canada.
 - In the last two weeks some of President Trump's key appointments have given clarification in their Senate confirmation hearings as to how they see the approach of the administration. Their comments have begun to provide some sense of what the American approach will be. But we won't really know what they are going to do until we see the actual proposals they make at the negotiating table. Time will be needed for the Trump team to discuss and decide on their specific negotiating proposals.
 - Some useful assurances were provided to the Canadian Cabinet and the media in Calgary by Stephen Schwarzman CEO of Blackstone Group and chair of Trump's strategic and policy council. But no one know what the specific proposals will be because they haven't yet devised them.

DOMESTIC TAX REFORM



NAFTA renegotiation is one thing but there is more. The Republican led Congress is trying to advance domestic corporate tax reform. In the mind of House Speaker Paul Ryan that reform is closely related to the trade agenda. Last week's news story "Oil Patch Faces Threat from U.S. Border Tax" was about the potential impact of this tax reform project. And by the way the impact just wouldn't be on oil and gas but on all exports to the U.S. from all countries. Fortunately it seems there is considerable opposition inside the U.S. to the border adjustment aspects of the proposal which would cause these problems. The outcome is uncertain.

Given its potential significance let's look at bit more closely at what is being considered as part of the U.S. tax policy reform:

DOMESTIC TAX REFORM



- Ryan argued in his “town hall” meeting January 12 that reform of U.S. tax system was crucial to improving U.S. trade policy
- But what Ryan and his Republican Congressional colleagues are proposing would be disastrous for international trade
- Ryan favours a “border-adjustable tax” under which the U.S. would try to marry corporate income tax reform with the border adjustment allowed in trade agreements for value added taxes like our GST or the EU VAT
- Under this scheme:
 - The corporate tax rate would be lowered
 - Imported inputs could not be deducted as an expense in calculating income
 - Receipts from exports would not count as income

DOMESTIC TAX REFORM



- The latter two proposals would be illegal under WTO rules
- The measure concerning imports would have an impact roughly equivalent to an additional 200 billion dollars in import duties
- Not counting revenues as income for tax purposes would be a prohibited export subsidy
- Related to concerns of Wilbur Ross and Peter Navarro about value added taxes
- Not clear how this proposal will be dealt with but at a minimum it will create a major distraction
- Much clearer is the likely hood of a significant reduction of U.S. corporate income tax rate which will put pressure on Canadian business and Canadian tax policy
- However, all of this suggests that vigilance by Canada would be wise.

TRUMP'S TRADE AGENDA



On the trade front I will go on to consider in more depth:

- Trump's approach
- The Americans' Team - Organization and Staffing
- NAFTA Renegotiation – Canadian Dimension
- Canada and Mexico
- Possible impacts on Canada's relations with other countries

What do we know about Trump's approach

- Focus on “bilateral deals” and bringing “jobs back to American shores”
- An American proposal to renegotiate NAFTA will be made in the coming days but it will almost certainly be short on specifics
- But regular USTR reports identify a number of specific American concerns about Canadian barriers to U.S. commerce
- Broad decisions about the organization of trade functions in the administration
- Key trade appointments
- Congress constrains president's approach to trade negotiations

ORGANIZATION OF TRADE FUNCTIONS IN THE TRUMP ADMINISTRATION



- Office of the United States Trade Representative is lead agency for trade negotiations, but
- Other agencies will play key roles, including
 - White House itself through the newly created National Trade Council (NTC)
 - Department of Commerce
 - United States Department of Agriculture
- Congress's role also critical
- Key appointments will be central to how it will work

NEWLY CREATED NATIONAL TRADE COUNCIL (NTC) IN THE WHITE HOUSE



NTC Mission:

- advise the President on innovative strategies in trade negotiations
- coordinate with other agencies to assess U.S. manufacturing capabilities and the defense industrial base
- help match unemployed American workers with new opportunities in the skilled manufacturing sector
- lead the Buy America, Hire America program to ensure the President-elect's promise is fulfilled in government procurement and projects ranging from infrastructure to national defense

KEY TRADE APPOINTMENTS



- Robert Lighthizer as U.S. Trade Representative
- Wilbur Ross as Commerce Secretary
- Peter Navarro as Assistant to the President and Director of Trade and Industrial Policy – and Head of White House National Trade Council (NTC)
- Jason Greenblatt as Special Representative for International Negotiations
- Sonny Perdue as Secretary of Agriculture
- Steven Mnuchin as Treasury Secretary

KEY TRADE APPOINTMENTS



Key trade players in Congress

- Under the Constitution Congress has the power "To regulate Commerce with foreign Nations ..."

House of Representatives

- Speaker Paul Ryan
- Chair of Ways and Means Committee Kevin Brady

Senate

- Majority Leader Mitch McConnell
- Chair of Senate Finance Committee Orrin Hatch
- Curiously Democrats are more in tune with Trump's protectionist agenda than Republicans

PRESIDENT TRUMP



- Highly likely that President Trump himself will take key trade decisions
- Structure of trade functions sets up President to be the arbiter
- Trump's transition website <https://greatagain.gov/> gives some flavor of how it is to work
- And the nature of their tasks
- Trump is constrained by Congress as to what he can negotiate
- But he has wide powers delegated by Congress over the last century to increase duties on foreign imports
- His protectionist trade proposals would violate international trade law and risk retaliation

TRUMP'S TRADE AGENDA



Trump's transition website provides insights

- “Ambassador Lighthizer will work in close coordination with Secretary of Commerce-designate Wilbur Ross and Peter Navarro, head of the newly created White House National Trade Council, to develop and implement policies that **shrink our trade deficit**, expand economic growth, **strengthen our manufacturing base** and help **stop the exodus of jobs** from our shores.”
- “During the campaign, Navarro, together with Commerce Secretary-designee Wilbur Ross, worked to develop and communicate the trade and economic agenda of the President-elect and a new vision to **bring back America's manufacturing wealth**”
- Jason Greenblatt one of Trump's “closest and most trusted advisors” will be “assisting on international negotiations of all types, and **trade deals around the world.**”

NAFTA RENEGOTIATION



- Confirmation testimony offers some clues but it is clear that Trump's team has not yet decided on their detailed asks
- Commerce nominee Ross said “I think all aspects of NAFTA will be put on the table”
- He repeatedly stressed the need for a regular re-examination process to determine whether trade agreements had met their objectives
- Treasury nominee Mnuchin suggested the outcomes in the TPP agreement could be the starting point for a NAFTA renegotiation
- But the more liberal TPP rules of origin would appear to be the opposite of what Trump wants
- Other reports suggested the focus would be on rules of origin and the binational panels for reviewing antidumping and countervail determinations

TIMING



- Administration seems to be in a hurry to address NAFTA
- New Administration will need to determine its specific objectives
- U.S. Trade Promotion Authority (TPA) law already sets detailed negotiating objectives, consultation and public information requirements
- For instance, President must give Congress 90 days advance notice and consult with Congress on objectives before starting negotiations
- Input required from private sector Trade Advisory Committees
- TPA can be found at:
<https://www.congress.gov/114/plaws/publ26/PLAW-114publ26.pdf>

DEVELOPING AMERICAN OBJECTIVES



- Turning Trump's ideas into specific negotiating proposals will take time
- Congress will play a critical role and Republican leadership is strongly in favour of trade agreements
- Business interests support highly integrated North American economy and resulting supply chains
- They will use their political relationships to influence the outcome
- States will play a role – for 35 U.S. states Canada is their largest export market
- Published lists of foreign barriers identify many possible U.S. objectives



- Under U.S. law the Office of the U.S. Trade Representative is required to submit an annual report on significant foreign trade barriers
- Law requires an inventory of the most important foreign barriers affecting U.S. exports of goods and services, foreign direct investment by U.S. persons, and protection of intellectual property rights
- Sections in 2016 report on Canada and Mexico show issues U.S. might raise in a renegotiation of NAFTA
- <https://ustr.gov/sites/default/files/2016-NTE-Report-FINAL.pdf>

SELECTED BARRIERS IN CANADIAN SECTION OF REPORT



- Canada's agricultural supply management system for dairy and poultry
- Restrictions on U.S. grain exports
- The personal duty exemption
- Restrictions on the sale of wine, beer and spirits
- Support for the aerospace sector, including Quebec support for Bombardier
- Intellectual property rights protection (including copyright and the patent utility requirements for pharmaceuticals that the Canadian courts have adopted)
- Telecommunications investment restrictions
- Other investment barriers
- Canadian content in broadcasting
- Canadian section of the report begins at page 79
- Of course, agreeing to American demands on many of these points would be good for the Canadian economy but there are real political reasons why the measures are still there
- Another issue is that some American businesses complain that the Canadian dollar is too competitively priced

CANADIAN OBJECTIVES FOR NAFTA RENEGOTIATION



- Must be a top priority for the government
- Treat this as an opportunity even though negotiations may be tough
- Also tactically essential to have our own objectives to balance U.S. demands
- Consider how to build a common agenda with the U.S. to equip North America to be a global competitive powerhouse
- Pursue Canadian objectives like:
 - Improve the NAFTA provisions on temporary entry for business persons
 - Constrain U.S. use of Buy America
 - Regulatory mutual recognition agreements
 - Move innovative TPP provisions into NAFTA
- Use opportunity to push for a more efficient border

WHAT IF U.S. WITHDRAWS FROM NAFTA?



- As noted above Trump has threatened to withdraw from NAFTA
- He could do so on 6 months written notice
- U.S. and Canada agreed through an exchange of notes that if the NAFTA ceased to have effect the Canada U.S. FTA would come back into force
- After 22 years of NAFTA going back to the FTA would create enormous disruption in North American supply chains and major uncertainty
- Let's take a closer look at what going back to the FTA would mean

BACK TO THE FTA



- U.S. duties on Canadian goods would remain at free, but
- Less precise FTA rules of origin would mean more uncertainty particularly for auto trade
- Binational panels for resolving disputes about antidumping and countervailing duties would disappear
- Losing strong NAFTA framework for services trade and investment would create uncertainty
- Loss of NAFTA provisions on temporary entry for business persons would be damaging
- Future of investor state dispute settlement provisions would be up in the air
- Loss of NAFTA protections against being sideswiped by American emergency actions against injurious imports
- FTA dispute provisions would give U.S. new rights to harass Canada
- Ironically Canada would have a better agreement with Mexico (the NAFTA) than with the U.S. (the FTA)
- Canada and Mexico could make clear they would welcome U.S. return to NAFTA

CANADA AND MEXICO



- Mexico is an opportunity for Canada
- Mexico is one of the world's pre-eminent emerging economies
- 15th-largest GDP in the world; Canada ranks 10th
- Mexico has become our fifth-largest export market and our third-largest supplier
- Bilateral trade has grown by more than 800 per cent since NAFTA
- Much of that trade is inputs to North American supply chains, inputs that help make North American companies more competitive on a global basis
- Use the current situation as an opportunity to strengthen our long-term strategic partnership with Mexico
- Don't undermine this opportunity by accidentally giving the Mexicans the impression that we are a fickle partner
- Some Canadians are suggesting it would be easier to manage our relations with the new administration if the Mexicans were not at the table
- But they don't offer convincing examples of why that might be the case
- On the contrary working with Mexico politically gives us more clout than going it alone

CANADA AND MEXICO



- The Mexican political fact in the U.S. is becoming more important as Americans of Mexican origin and their descendants make up an ever larger part of the U.S. electorate
- Our objectives for working with Mexico should be straightforward
- Exchange intelligence, compare analyses
- Discuss possible approaches
- Reduce the prospects for the United States to play us off against each other
- Identify where our objectives coincide and where they diverge
- Where they diverge we will need to devise the most effective way of protecting and advancing our interests

EFFECT ON OTHER CANADIAN RELATIONSHIPS



- Canadian policy makers will need to take account of the interrelationships between our bilateral U.S. agenda and our relations with other countries
- Canada should continue to encourage diversification of our foreign trade by negotiating trade agreements with other countries
- With Japan we should be looking to complete the negotiation of a bilateral FTA
- But more protectionist rules of origin in NAFTA could adversely affect the business model of the Japanese automobile producers in Canada
- It could also impact the sales of Japanese automotive products in Canada
- Entering exploratory discussions with China about a possible FTA might run counter to the objectives of Trump's policy with China and could put Canada in an awkward position
- The CETA agreement with the EU could be even more valuable to Canada as the U.S. adopts a more protectionist stance
- Canadian officials should be setting the stage for a negotiation with the UK to ensure a robust trade relationship when Brexit takes effect

ADVOCACY IN THE UNITED STATES WILL BE CRITICAL



- Key to achieving our negotiating objectives in Washington will be ensuring that right across the U.S. there is an understanding of how beneficial their relationship with Canada is
- Congressman and the administration will pay a lot more attention to messages from back home than the views of foreign government officials
- What state governments say will be important
- We have a good story to tell
- Canada is the largest foreign customer for American goods and the first foreign market for 35 U.S. states
- We need to remind Americans of this and other benefits they get from being close to Canada
- To be truly effective we need a united national message to carry to Americans right across the land
- In addition to the federal government our messengers must include:
 - Parliamentarians of all political parties
 - The provinces
 - Municipalities
 - Business groups

CONCLUSION



- Hope for the best; Plan for the worst
- The process of a NAFTA renegotiation will take time to unfold
- Canada should be patient
- With time Trump team may develop better appreciation of NAFTA's value
- Useful changes to NAFTA could be explained as American gains
- Unfortunately for the time being the only certainty is uncertainty