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NAFTA Update: Sixth Round Inconclusive, but Delays Withdrawal Threat

February 5, 2018

KEY POINTS:

- **January 23–29 US, Canadian, and Mexican negotiators met in Montreal for the sixth round** of NAFTA talks.
- Negotiators **closed the anticorruption chapter** and made progress on the telecommunications, digital, sanitary and phytosanitary (SPS) measures, technical barriers to trade (TBT), and customs/trade facilitation chapters. Digital, telecommunications, and food safety text may be completed during the **seventh round February 26–March 6 in Mexico City**.
- **Progress has been slow, with little momentum on the most contentious issues.** Further, Canadian and Mexican negotiators are unwilling to make concessions in areas like services or intellectual property while the United States remains committed to unconventional positions in government procurement, dispute settlement, trade remedies, counter-seasonal remedies for agriculture, autos rules of origin (RoO), etc.
- Floated Canadian **counterproposals on autos and dispute settlement failed to advance.**
- With growing recognition that **conclusion of the talks by the March round** in the United States is **unviable**, it is **increasingly likely that the negotiations will be drawn out** beyond the Mexican general elections and the US midterms – **or that frustration over lack of progress will lead President Trump to initiate withdrawal** proceedings. Our **updated scenarios are below.**

Trade Ministers Commit to Continued Talks...

On January 29, **trade ministers from Canada, Mexico and the United States held a press conference** in Montreal to conclude the sixth round. It was the first meeting held at the ministerial level since the Arlington round in October. During the press conference, USTR Lighthizer, Canadian Foreign Minister Freeland, and Mexican Economy Minister Guajardo confirmed **closure of the anticorruption chapter** and **progress made on the telecommunications, SPS, TBT, and customs/trade facilitation** chapters.

While Guajardo acknowledged substantial challenges for the next round, he added that “progress made so far puts us on the right track to create landing zones to conclude the negotiation soon.” Later in the week, he stressed (perhaps unrealistically) that the **most difficult issues “could” be addressed in the February round**, in an effort to position

Mexico as a good-faith actor. With positive resolution of the talks unlikely by March, Guajardo told reporters that **halting NAFTA talks during Mexico's election season was "not a real possibility,"** opening the door to the **option of long, drawn out negotiations.**

Coming on the heels of Guajardo's positive tone, **Lighthizer reiterated the US goal to "rebalance" the trade deficit** with Mexico and Canada, asking "is it not fair for us to wonder whether this imbalance could in part be caused by...NAFTA?" Lighthizer swiftly **rejected new Canadian counterproposals** floated in Montreal, including a critical olive branch on auto RoO that had been carefully vetted with the auto industry of all three nations. Further, he **attacked the Canadian WTO case against US trade remedies**, stating this was "a massive attack on all of our trade laws...[it] essentially claims that...the United States effectively gave away its entire trade regime in the Uruguay Round." There is a risk that this rhetoric could lead the United States to further weaken WTO institutions. Lighthizer also **criticized Canada's refusal to extend equivalent treatment to US service providers** vs. those of other countries negotiating FTAs with Canada. He concluded on a more positive note, saying that the **"United States views NAFTA as a very important agreement,"** but that **"major breakthroughs" would be needed before the next round,** pressing Mexico and Canada to exhibit enhanced flexibility.

In her remarks, Freeland said she was **"pleased" with progress made this week but noted a "significant gap on a number of issues."** Freeland strongly countered Lighthizer's response to Canada's informal auto rules of origin proposal, noting industry support. She added that **renegotiating NAFTA should not cause "the dismantling of cross-border supply chains that have made our auto industry the envy of the world."** Freeland blasted some of the most controversial US proposals, "We should be clear about this: **These proposals are unprecedented** and...represent an approach quite different from any Canada has encountered before, as a trading nation."

...But Rough Road Ahead

While **Lighthizer lamented the slow pace** of talks, **Canadian and Mexican negotiators made clear they were unwilling to make concessions in areas like services or intellectual property while the United States remains committed to unconventional positions** in government procurement, dispute settlement, trade remedies, counter-seasonal remedies for agriculture, autos RoO, etc. **Little if any headway was made on the most controversial issues.** The **distance between the Ministers was palpable and was illustrated by a failure to agree to a closing ministerial statement.**

CODEL in Montreal

For the first time since negotiations began, **a congressional delegation traveled to participate in the round** to reinforce lawmakers' priorities. House **Ways and Means Trade Subcommittee** Chairman Dave Reichert led the bipartisan delegation, which met with stakeholders and negotiators and to express support for modernizing – not destroying – the trade agreement. After the round, a letter signed by 36 Republican Senators stressed the need to "keep NAFTA in place," in another indication of enhanced congressional engagement around the talks.

Trump Strikes a Less Aggressive Tone on Trade

Despite reports that President Trump was seriously considering withdrawing from NAFTA during/around the State of the Union, he touched on trade only briefly during

the address, reiterating familiar phrases on fair and reciprocal trade deals. He offered few details on what trade actions he might take but indicated that his administration would “protect American workers and **American intellectual property, through strong enforcement of our trade rules.**”

The omission of NAFTA from the address reduces a potentially imminent threat of withdrawal. Seen in combination with Guajardo’s statements about Mexico’s ability to negotiate through the Mexican presidential campaign, this **may point to a drawn-out negotiation, unless frustration over lack of progress leads Trump to initiate withdrawal** proceedings after the February or March rounds.

What to Watch

The seventh round is scheduled for **February 26–March 6 in Mexico City. Telecommunications, digital trade, and food safety measures are reportedly nearly complete** and there is likely to be an effort to finalize them at the next round in Mexico City. Talks will also likely address counterproposals— including a proposal that would preserve NAFTA’s investor-state dispute (ISDS) mechanism as a bilateral agreement between Canada and Mexico if the United States decides not to participate. **NAFTA without ISDS would be opposed by important private sector stakeholders** in the United States. Further, David Malpass, Treasury Undersecretary for International Affairs stated after Montreal, “There will be **consideration of exchange rates as part of the NAFTA process,**” but declined to detail how the issue might be addressed in future rounds.

While still a possibility, **US withdrawal from NAFTA before the eighth round in mid-March in the United States (likely Washington) is less likely.** The parties now understand that conclusion of the talks by March is unlikely or impossible, but the United States is still pushing for progress before Mexico City. It is probable that **after the March round US withdrawal will again be in play, or that the timeline for negotiations will be drawn out beyond the Mexican elections** in July and the US midterms in November.

The following NAFTA scenarios remain possible, with varying probability:

Scenario 1: Negotiations Drag Out

Given the difficult negotiating environment, with US negotiators remaining inflexible on the most difficult proposals – most of which are unacceptable to Canada, Mexico, and important US economic actors, it is **likely that the talks will extend** through the Mexican presidential election July 1 and the US midterms in November.

While this **outcome avoids the disastrous impact of US withdrawal, persistent uncertainty around NAFTA would continue to lead to contingency planning** around supply chains and commodity purchases. However, an **extended timeline would allow congressional and state stakeholders to better organize their efforts,** including in reaction to newly-formed coalitions designed to protect the gains of the agreement. In this way, **dragging out the negotiations for as long as possible might allow for a more favorable result.** That said, if USTR maintains its inflexibility, this scenario could be better titled “The Long Goodbye.” **US withdrawal would remain possible throughout the talks.**

Scenario 2: US Withdrawal

The ongoing **disconnect between the parties’ positions, coupled with inflexibility around the most controversial US proposals** means a breakdown of the talks and **US**

withdrawal under NAFTA article 2205 is still quite possible, even with Trump's moderated tone on North American trade. The **most probable timing could range from after the Washington round in March through the midterms**.

For the scenarios around US withdrawal, please refer to MA's memo of January 4 (attached). Most **likely withdrawal would be driven by the United States**. Only if Trump decided to offensively attack Mexico/Mexicans as has occurred in the past would Mexican withdrawal be possible. However, this is unlikely. NAFTA has for the most part not become part of the Mexican presidential campaigns. Left-leaning candidate Andres Manuel Lopez Obrador has identified a Harvard-educated economist to lead the negotiations if he is elected, Graciela Marquez, who has defended NAFTA as an engine of job growth.

If NAFTA 2.0 fails, the US relationship with Mexico and Canada will suffer, and there **will be little political will in either to embark on a bilateral agreement** with the United States, despite Trump's penchant for bilateral deals. They are more likely to focus on CPTPP (Comprehensive and Progressive Trans-Pacific Partnership) and deals with nations other than the United States.

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