

NAFTA Renegotiations: The View from Canada

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Introduction

- Canada is a large country with a small population
- 3/4s of our exports go to the U.S.
- 1 in 5 jobs depend on trade
- Many U.S. companies operate in Canada through branches or wholly-owned subsidiaries
- Canada supports expansion of trade according to defined rules
- Canada is in a defensive negotiating position in NAFTA renegotiation
- While NAFTA could use some modernizing, Canada believes the NAFTA is working well as is

Canadian Objectives

Canadian negotiating priorities were made public on August 14, 2017 by way of a statement given by the Minister of Foreign Affairs, Chrystia Freeland:

- Modernization of NAFTA
- Make NAFTA a more “progressive” trade agreement
 - bringing strong labour and environmental provisions into the agreement
 - introducing chapters on gender rights and Indigenous peoples
 - reforming the ISDS mechanism - right to regulate in the public interest
- Make life easier for business and people
 - cutting red tape
 - harmonizing regulations
- Increasing market access for government procurement
- Expanding the provisions on temporary entry for businesspeople
- Upholding and preserving elements that Canada deems to be in its national interest
 - AD appeal process in Chapter 19
 - preservation of Canadian culture
 - Canada’s system of supply management

Canadian Negotiating Positions

Following are Canada's current negotiating positions as evidenced by media reports and government statements:

- 1. Elimination of Chapter 19:** Canada objects to the elimination of Chapter 19, as Canada has a strong record of success in disputes under the chapter.
- 2. Increase *de minimis* threshold to \$800:** The U.S. proposal to increase the *de minimis* threshold to \$800 USD is a point of controversy in Canada. While consumers might welcome the increase from the current \$20, Canadian retailers fear a surge of competition from U.S. online retailers.
- 3. Amendments to Chapter 11:** Canada has taken the position that the Chapter 11 Investor State Settlement Dispute (ISDS) mechanism be revised to mirror the new investment court mechanism set to be used in the Canada-European Union Comprehensive Economic and Trade Agreement (CETA).

Canadian Negotiating Positions

4. **Liberalize Canadian Supply Management:** It is highly unlikely that Canada will agree to make any significant changes to its supply management system, which strictly controls the importation of dairy products, poultry, and eggs.
5. **U.S. Content Requirement in ROO:** Canada is resisting the U.S. proposal to add U.S. content requirements to the rules of origin.

Planning for U.S. NAFTA Withdrawal

- A U.S. withdrawal from NAFTA could result in the existing Canada-U.S. Free Trade Agreement (CUSFTA) to be reactivated.
- The CUSFTA is not as extensive as the NAFTA, and many provisions (i.e., rules of origin) are not as refined as those in NAFTA.
- Alternatively, World Trade Organization (WTO) rules would be applicable in respect of trade with the U.S. (and Mexico).
- Canadian-based businesses could look to other free trade regions to maintain/expand their businesses (e.g., CETA)

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Questions?

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