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News Analysis: Next Round of NAFTA Talks May Bring Renegotiation to an Inflection Point if Canada and Mexico Refuse to Engage on U.S. Proposals

From Lori Wallach, Director, Public Citizen's Global Trade Watch

Renegotiation of the North American Free Trade Agreement (NAFTA) faces a critical juncture as the fifth round of talks officially starts Friday in Mexico City.

At issue is whether Canada and Mexico will engage on a series of proposals to significantly reshape NAFTA that were submitted by the United States during the fourth round of talks in October – and, if they refuse, how the administration will respond. Also at issue if they do engage is what additional proposals the administration will put forward to deal with the abysmal labor standards and wages in Mexico. How these issues play out will greatly affect the fate of NAFTA.

The U.S. proposals from October would reverse some of NAFTA's incentives to outsource investment and jobs from the United States and are among reforms that Democratic and Republican members of Congress, labor unions and other NAFTA critics spanning the political spectrum have demanded for decades. More than 930,000 U.S. workers have been certified under just one narrow government program as losing their jobs to NAFTA.

The administration has made clear that the choice facing Canada, Mexico and the corporate lobby is either a new approach or no NAFTA. Ironically, the corporate lobby's strategy increases the likelihood of a no-NAFTA future.

The corporate lobby's response to the administration's proposals to eliminate NAFTA job outsourcing incentives suggests that the new reality of a different NAFTA or no NAFTA is being dismissed as a bluff, or that the corporate lobby prefers no NAFTA. Whether a case of magical thinking or ideological rigidity after years of corporate interests dictating U.S. trade policy, the fifth NAFTA renegotiating round will reveal whether the corporate lobby has persuaded the governments of Canada and Mexico to join a game of high-stakes poker that increases the odds of the no NAFTA outcome.

Given that the U.S. Chamber of Commerce, National Association of Manufacturers, Business Roundtable, Coalition of Service Industries, PhRMA and other business lobbies have spent decades and hundreds of millions to insert protections and policies unrelated to trade into U.S. "trade" agreements, they may prioritize defending the protections they won. But why associations representing U.S. farmers and ranchers would get on that ideological bandwagon is inexplicable. The Farm Bureau and commodity groups have joined the Chamber in the our-way-or-the-highway approach that paves the way to a no NAFTA outcome. But the agriculture sector is most reliant in sustaining NAFTA and its duty access for U.S. exports.

If the United States were to withdraw from NAFTA, the pact's implementing legislation would authorize the president to proclaim a reversion of trade terms between the three countries to the Most Favored Nation tariff levels of the World Trade Organization (WTO). Forty-six percent of U.S. tariff lines, 50 percent of Mexican tariff lines and 76 percent of Canadian tariff lines are duty-free under the WTO, and the existing tariffs would be drastically lower than those before NAFTA because the WTO tariff cuts have been fully implemented. The current average WTO Most Favored Nation applied tariffs on a trade-weighted basis for the United States, Mexico and Canada are respectively 2.4, 4.5 and 3.1 percent.

However, agriculture is the outlier: U.S. exports to Mexico, beef, pork, poultry and wheat would face significant tariffs. (Almost all U.S. corn exports to Mexico, by far the largest U.S. agricultural export, would be duty-free. Mexico went duty-free for yellow corn for all WTO countries in 2008, thus 95 percent of U.S. corn exports to Mexico would be duty-free without NAFTA. A large share of U.S. soy exports also would be duty-free under Mexico's WTO tariff rates.) Just assuming hypothetically that the president withdrew from NAFTA and chose not to revert to duty free treatment for Canada under the 1988 U.S.-Canada Free Trade Agreement, which was suspended not terminated when NAFTA was enacted, WTO tariffs for Canada would be significant for U.S. exports to Canada of wheat, barley, dairy and beef.

That farmers have the most to lose under the no-NAFTA outcome and do not have a dog in the fight over auto-sector rules of origin or foreign investor protections, for instance, makes even more perverse their participation in the Chamber's dangerous game of trying to shut down any discussion of the U.S. NAFTA restructuring proposals that enjoy wide support outside the corporate lobby groups.

U.S. Trade Representative Robert Lighthizer's response to team status quo's declaration that the proposed reforms are non-starters was to declare: "These changes of course will be opposed by entrenched Washington lobbyists and trade associations." The corporate lobby has been in a full meltdown since, operating under a premise that somehow rejecting the proposals will make them go away.

In contrast, Lighthizer has raised a tantalizing prospect: a new trade agreement model could rebuild broader consensus for trade expansion, creating a new bipartisan coalition to pass a NAFTA replacement. The proposals that have triggered the corporate hissy fit would further this goal. There is wide support in Congress and among unions, small businesses and consumer groups for the October U.S. proposals to:

- Eliminate some investor protections that make it cheaper and less risky to move American jobs to low-wage Mexico,
- Roll back waivers of Buy American and other domestic procurement preferences that outsource U.S. tax dollars rather than reinvesting them to create jobs at home,
- Tighten the rules of origin so that goods with significant Chinese and other non-NAFTA content would no longer enjoy NAFTA benefits, and
- Require NAFTA countries to review the agreement every five years to ensure it is meeting desired outcomes and affirmatively agree to extend it.

Assuming that the countries can engage in real negotiations at the fifth round, the next step toward building broad consensus for trade expansion will involve the administration creating proposals to raise labor and environmental standards and wage levels in Mexico. There is no real remedy to NAFTA's outsourcing incentives unless a new NAFTA raises Mexican wage levels. Canada's proposal for a new NAFTA labor chapter is much closer to what unions in all three countries seek than the already-rejected Trans-Pacific Partnership (TPP) labor and environmental standards language that has served as the template for U.S. proposal to date. At the same time, the U.S. administration is exploring what new approach could remedy the clear failings of the labor provisions in past U.S. pacts, a problem made glaringly clear with the recent Central America Free Trade Agreement ruling that persistent, severe labor abuses in Guatemala did not violate the standard U.S. trade-pact labor rules included in that pact.

Also key to attracting large blocs of voters in favor of a revised deal will be not adding the TPP's extended monopoly protections for pharmaceutical firms or terms rolling back food safety and financial regulation. The administration is inclined to support these terms, but various TPP signatories led by Canada rejected the very provisions last weekend, which derailed efforts to sign a TPP-11 deal.

In an odd role reversal, longtime critics of NAFTA hope Canada and Mexico will engage on the U.S. reform proposals during the fifth round. In contrast, if the NAFTA partners mimic the corporate lobby's dismissive non-started approach, this round of talks could be the beginning of the end for NAFTA.

Given that low wages and lax environmental standards in Mexico draw firms to relocate production and jobs from the United States, the best outcome for workers in all three countries from the ongoing NAFTA renegotiations is a new agreement that raises standards. Indeed, raising wages in Mexico is essential to reversing American job outsourcing to its southern neighbor, where average manufacturing wages are now 9 percent lower in real terms than before NAFTA. However, because NAFTA includes provisions that explicitly incentivize outsourcing, and almost a million American workers have been certified as losing their jobs to NAFTA, and every week NAFTA helps corporations outsource more middle-class jobs, no NAFTA is better than more years of the current agreement."