

NAFTA: TPP in Disguise?

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It now appears that after a good bit of drama, the NAFTA path is becoming clear, at least as far as process is concerned. The required notification letter has been sent, which means that formal negotiations can begin after August 16. Since Ambassador Lighthizer has expressed a desire to get moving, it is fair to assume talks will begin soon after that date and not wait until the fall, and that informal discussions will occur before then. Meanwhile, we are waiting for the arrival of detailed U.S. negotiating objectives due to Congress by July 17. Those may not be much different than the eight page draft letter that was ultimately tossed in favor of a short standard notification letter, but even that would provide some useful guidance as to the administration's intentions.

With the beginning more or less settled, the debate in the commentariat has switched its focus to the end. When will the negotiations finish and what will we get? There is less talk about what we will have to give in order to get anything, but that is typical. There have been a number of expressions of hope by both the Mexicans and the Americans that we can finish by the end of the year. The Mexicans don't want to bump into their presidential election cycle, and the Americans just want to hurry up and get it over with. The Canadians, not having an imminent election and not being an impatient people, appear to be willing to go either way — short or long as circumstances dictate.

Substantively, anxiety levels in the private sector are rising quickly. This has been most visible amongst farmers, who were initially afraid of being thrown under the bus in the interest of more manufacturing jobs. They have been reassured on that point by both Amb. Lighthizer and Agriculture Secretary Sonny Perdue, but since farmers are generally not happy unless there is something to worry about (I speak from the experience of many years of listening to my father-in-law), they are now concerned either that talks might fail and we would pull out of NAFTA, which would be a disaster for agriculture exports, or that while we might not hurt them, we could very well not help them either. The farm community has both offensive and defensive agendas in NAFTA, the former including a range of issues with Canada, particularly dairy, where they hope to see progress, particularly since they were the biggest immediate losers when the administration pulled out of TPP.

Meanwhile, manufacturing interests are starting to line up, saying primarily "do no harm." They are reminding the administration that over 23 years they have constructed numerous supply chains within the three countries that have created a truly integrated market that has been profitable and has enhanced U.S. export competitiveness. The U.S. auto industry, in particular, which is one of the most important when it comes to trade across both borders, has been clear in saying it is largely satisfied with existing rules of origin, although it would welcome language on currency manipulation and recognition of U.S. safety and emission certifications as useful precedents for future negotiations (they have also, to their credit, made clear that the rather odd suggestion of taking action against imports of German cars did not come from them). Finally, parts of the ICT sector have weighed in advocating provisions on digital trade, such as on cross border data flows, which were not dealt with in the original negotiation.

Organized labor has also begun to weigh in with their old standbys of better language, in the text not in side letters, on labor and environment.

So, it appears we have the ingredients for a wedding — something old (labor and environment), something new (digital trade), something borrowed (language from TPP), and something blue (what the farmers are going to be when they see the results).

“Something borrowed” is particularly important. Observers have begun to point out what Amb. Lighthizer has acknowledged — language on digital trade, intellectual property, and a host of other rules-based issues, including labor and environment — already exists in the late lamented TPP and thus does not have to be reinvented. One of the things I learned on Capitol Hill was never to use something once if you can use it two or three times, and Amb. Lighthizer has a golden opportunity to do exactly that, particularly since our negotiating partners have already agreed to it as part of TPP.

That would open the door to a possibly happy ending for TPP proponents. As we negotiate NAFTA and subsequent bilaterals with other TPP countries perhaps we can squeeze in as much TPP language as possible and end up with a network of agreements that meet the standards Amb. Froman negotiated. That’s a much less efficient way to do it, and it will waste a lot of time, but it may be the best we can do in the current environment. William Reinsch is a Senior International Trade and Government Relations Advisor at Kelley Drye & Warren and a Distinguished Fellow with the Stimson Center, where he works principally with the Center’s [Trade21 initiative](#). This piece was originally published [here](#), May 31, 2017.