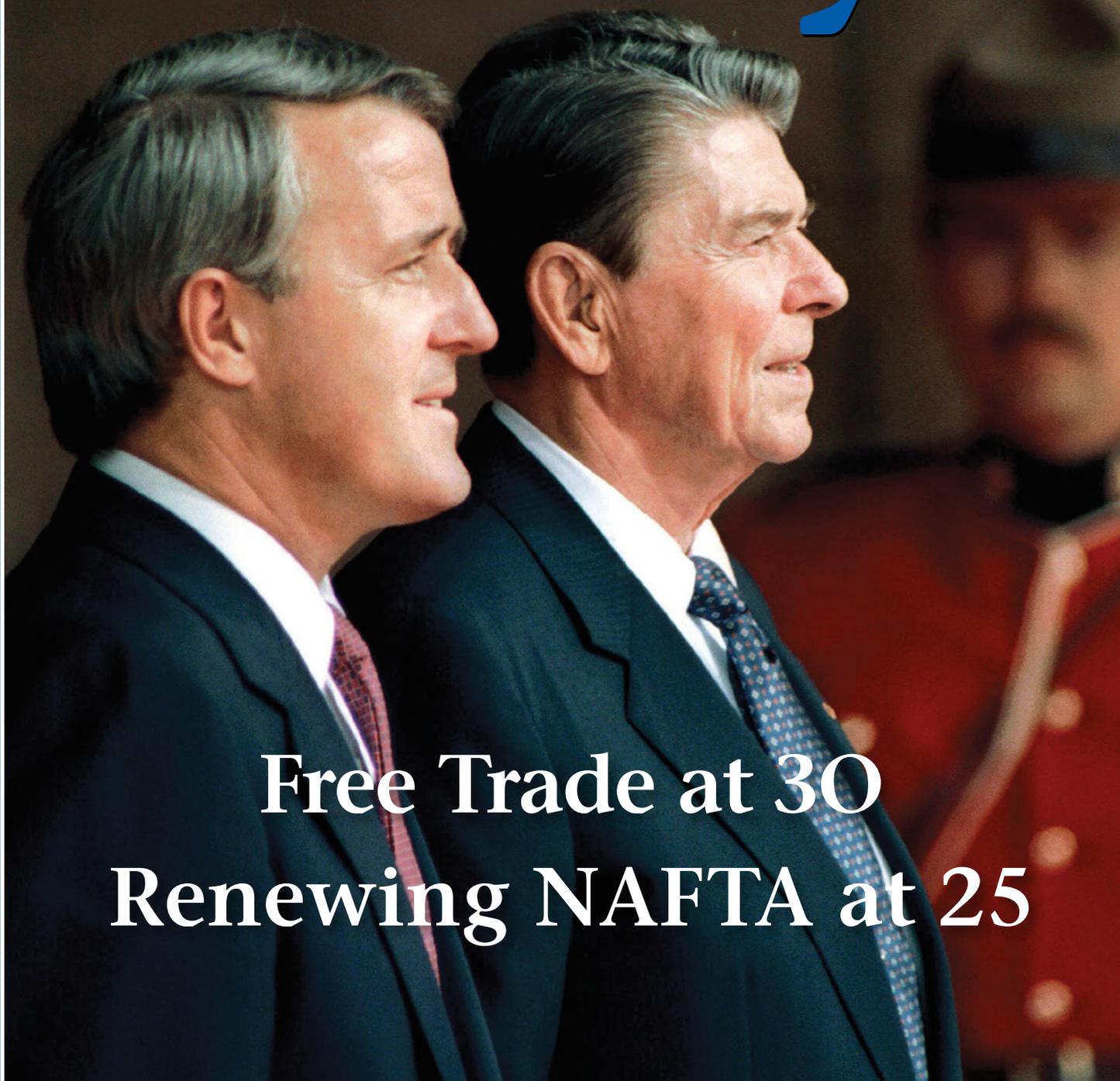


Canadian Politics and Public Policy

# Policy



Free Trade at 30  
Renewing NAFTA at 25

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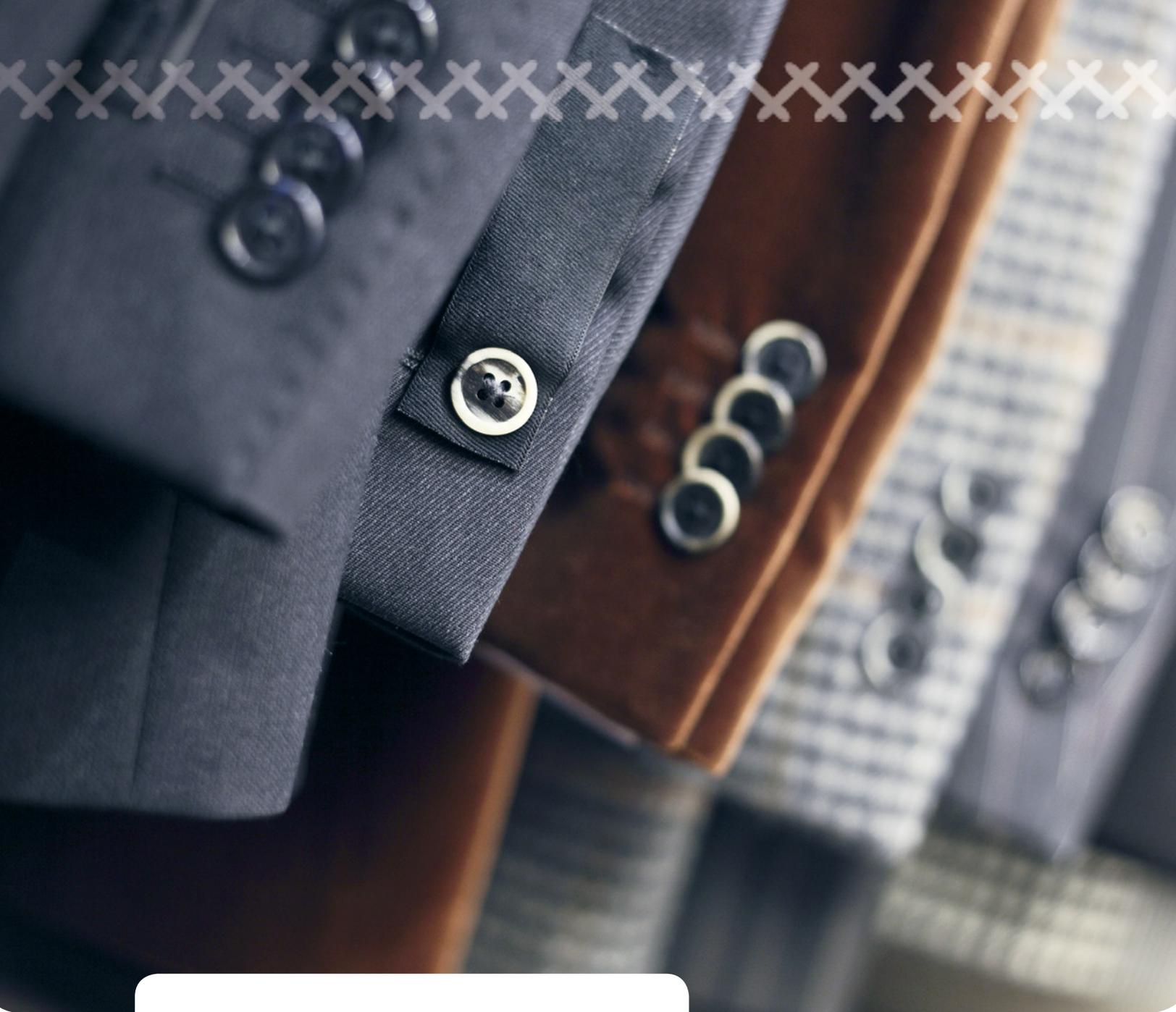
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# Policy

## Canadian Politics and Public Policy

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## Policy

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## In This Issue

- 6 **From the Editor / L. Ian MacDonald**  
Free Trade at 30, Renewing NAFTA at 25
- 7 **Q&A**  
Free Trade at 30: A Conversation with Brian Mulroney
- 12 **Justin Trudeau**  
*Verbatim:* The Elephant and the Moose
- 17 **Frank Graves**  
North America at the Crossroads: Inward or Outward?
- 20 **Andrew Scheer**  
The Conservatives on NAFTA: Here to Help
- 23 **Michael Gregory**  
A Fine Balance: Trade Deficits and the New NAFTA
- 26 **Paul Frazer**  
Letter From the Swamp: NAFTA is Dead; Long Live NAFTA
- 29 **Meredith Lilly**  
The NAFTA Road Ahead: Why Canada Must Be in the Fast Lane
- 32 **John Delacourt**  
Getting to NAFTA: The Strategic Principles Determining Canada's Approach
- 35 **Jeremy Kinsman**  
Negotiating With an Elephant: NAFTA's Not for Sissies
- 39 **Sarah Goldfeder**  
Getting to Yes: Why Fast Track Matters
- 42 **Paul Moen**  
Trade Remedies Under NAFTA: Still Time for Canada to Pivot to Offence
- 45 **Robin V. Sears**  
What a Difference a Decade Makes: Free Trade at 30
- 49 **Thomas d'Aquino**  
NAFTA 2.0: *Carpe Diem*
- 52 **Perrin Beatty**  
Talking With Americans
- 54 **Jean-Jacques Ruest**  
Rail as the Transportation Hub of NAFTA: A Compelling Case Study
- 57 **Book Excerpt: Alvin Cramer Segal**  
Winning Canadian Apparel in the FTA
- 60 **Column / Don Newman**  
Can NAFTA Survive Trump?

### Canada and the World

- 61 **Donald K. Johnson**  
The Fiscal Update: A Golden Opportunity to Help Canada's Charities
- 63 **Thomas S. Axworthy**  
We vs. Them: The Politics of Inclusion Versus the Politics of Resentment
- 67 **David Mitchell**  
Hanging by a Thread: British Columbia's NDP Minority Government

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From the Editor / L. Ian MacDonald

## Free Trade at 30 Renewing NAFTA at 25

Welcome to our special issue marking 30 years since the negotiation of the Canada-U.S. Free Trade Agreement, and 25 years since a trilateral deal was struck to include Mexico, producing the NAFTA.

We begin with a Q&A with Brian Mulroney, the architect of the Canada-U.S. FTA in 1987 and NAFTA in 1992. We met at the former prime minister's Montreal law office as the NAFTA talks were underway in August. Mulroney has been advising Prime Minister Justin Trudeau, Foreign Affairs Minister Chrystia Freeland and senior Canadian officials on NAFTA, and he's been impressed by their focus and management of the file, particularly the relationship with mercurial U.S. President Donald Trump.

In a *Verbatim*, we offer Prime Minister Trudeau's speech to the U.S. National Governors Association in mid-July, in which he reminded them that Canada is the largest customer of two-thirds of American states, and that "Canada buys more from the U.S. than China, Japan and the UK combined."

Pollster Frank Graves provides insights into the generally positive state of public opinion and mood of Canadians about NAFTA and free trade going into the talks. And the new Conservative Leader, Andrew Scheer, offers the Official Opposition's perspective on the trade negotiations.

President Trump has made reducing America's trade deficit his number one priority in the NAFTA talks. BMO Capital Markets deputy chief economist Michael Gregory crunches the numbers of U.S. trade statistics and concludes that Trump's issue isn't so much with Mexico, despite a \$64 billion merchandise trade deficit in 2016,

but with China, with whom the U.S. has a deficit of nearly \$350 billion.

In a letter from Washington, former Canadian diplomat Paul Frazer wonders about the potential impact of Trump tweeting on the talks. "Presidential tweets," he notes, "can put every aspect of the NAFTA negotiation to the test of public scrutiny." Carleton University's Meredith Lilly looks at the politics and timelines for getting a new deal done, notably the Mexican elections next July, and the U.S. mid-terms next November. Ensign Canada's John Delacourt, former director of communications for the Liberal Research Bureau, looks at how Team Canada has prepared for the talks.

Veteran foreign affairs hand Jeremy Kinsman has been dealing with the Americans for decades, and reminds us of the checks and balances in the U.S. system. "The division of powers means that American negotiators aren't free agents," he writes. "They need to answer to Congress as well as to the president." Earncliffe's Sarah Goldfeder, a former adviser to two U.S. ambassadors to Ottawa, writes about pressures from Congress and the obligations under "fast track", the president's trade promotion authority. Her Earncliffe colleague Paul Moen considers trade remedies beyond the dispute settlement panels under Chapter 19 of the NAFTA.

Veteran NDP strategist Robin Sears, on the losing side of the free trade election of 1988, looks back 30 years later and notes that his party's constituencies today are participants in the NAFTA renewal process.

Tom d'Aquino has followed trade policy discussions for decades and is

an optimist on the NAFTA talks, for which he writes that Canada is very well prepared. Canadian Chamber of Commerce President Perrin Beatty shares the views of the business community, while CN Chief Marketing Officer Jean-Jacques Ruest writes that railways are the transportation hub of NAFTA.

In an excerpt from his new memoir, *My Peerless Story*, Alvin Cramer Segal shares the inside story of how the Canadian apparel industry, and particularly Peerless Clothing, became big winners under the Canada-U.S. FTA and, later, the NAFTA. Finally, columnist Don Newman offers his take on Donald Trump and the NAFTA talks.

In *Canada and the World*, philanthropist and former investment banker Donald K. Johnson writes that the fall fiscal update offers the Trudeau government and Finance Minister Bill Morneau "a golden opportunity" to "tweak the rules for charitable donations" by exempting the sale of private companies and real estate from the capital gains tax if the proceeds are donated to a registered charity.

Veteran Liberal strategist Tom Axworthy looks at populist developments such as Trumpism and Brexit and worries that the politics of resentment threatens the politics of inclusion.

Finally, David Mitchell looks at the new minority NDP government in B.C. and assesses its prospects for survival, which are looking up following the resignation of former Liberal Leader Christy Clark, who has also relinquished her seat, giving Premier John Horgan more breathing room in the legislature. **P**

# Q&A

## Free Trade at 30: A Conversation with Brian Mulroney

**Policy:** Mr. Mulroney thank you for doing this. Mr. Trump, in a conversation with the president of Mexico, said that America's trade relationship with Canada was balanced and fair. This is precisely the language that you have used to describe it.

**Brian Mulroney:** Yes, if you look at the numbers they bare out that statement. If you looked around the world and looked historically at trade agreements and looked for the one that best reflected growth, fairness, prosperity for both sides 99 times out of 100 you would come down in favour of the Canada-U.S. trading relationship.

**Policy:** And as you have pointed as well, while we have a merchandise trade surplus of US\$11 billion with the Americans they have a \$24 billion trade-in-services surplus with us, giving them a \$12 billion surplus on this huge relationship.

**“ You can't amputate the service sector numbers from your calculation and say, see you have a surplus with us. In fact, the American service sector is very much dominant not only with us but around the world, and it's a very important component and a growing component of our trade with the United States. ”**

**Brian Mulroney:** Yes, which they conveniently set aside when they are putting out the numbers. But as I had the occasion to point out, and I'm not alone in it, to the Cabinet in Ottawa earlier this year, NAFTA is an agreement in trade in goods and services. You can't amputate the service sector numbers from your calculation and say, see you have a surplus with us. In fact, the American service sector is very much dominant not only with us but around the world, and it's a very important component and a growing component of our trade with the United States. So, I think the Americans, when they look at it realistically, they'll see that if weren't not always in balance, they tend to have a small surplus with us.

**Policy:** Their number one priority as you know is reducing their trade deficits in this negotiation although I don't know how that impacts on the law of supply and demand but would you say that Mr. Trump's real issue is more with China, where they have a \$350 billion merchandise trade deficit, than with Mexico, much less Canada?

**Brian Mulroney:** Well, obviously, but you know you can't set out a policy the idea of which is reducing trade deficits by limiting trade. The growth that comes from trade should help strengthen your situation. Trade deficits are not automatically wrong or unhelpful to a country. They indicate a strong, growing economy and a desire of American consumers to purchase goods and services from around the world, particularly China, which is how they've got into this



Brian Mulroney—the father of free trade in Canada. *Policy photo*

situation. But it is not lethal, they can work their way out of it.

**Policy:** I want to take you back 30 years. Here we are in 2017, 30 years ago in the momentous free trade election John Turner said in the leaders' debate "I believe you have sold us out." The NDP said we were going to lose our health care. You've often pointed this out. Here we are 30 years later and the Liberals are the big promoters of free trade and the NDP stakeholders, big labour, are at the table. It's a very different table.

**Brian Mulroney:** I always thought in this issue, if you can live long enough you will see everything

and I'm thankful that I've lived long enough to see this part. Yes, of course that's what's happened. You would be hard-pressed to find a legitimately influential organization or individual in Canada who will come out in opposition to NAFTA. But I think that's good. That means that the original deal that we did on the Canada-United States Free Trade Agreement, followed by NAFTA, was extremely beneficial to Canada and of course it never works unless it is beneficial to the other two partners. It has been great for Mexico, great for the United States and great for Canada. I noticed that and compared it with the brutality of the 1988 election campaign, compare that with the harmony and the unanimity that these new negotiations have provoked, and I'm very pleased.

**Policy:** Do you remember the 1988 campaign meeting in Kingston, Ontario where the Holiday Inn was surrounded by demonstrators?

**Brian Mulroney:** I do indeed.

**Policy:** And it happened to be, I think homecoming weekend at Queen's so a certain amount of alcohol had been consumed and the RCMP wanted you to go in by the back door and you said "No, we will go in by the front door" and you and your wife, Mila, were jostled all the way in.

**Brian Mulroney:** No, it was a brutal campaign. I remember that one particularly because of, as you say in a very polite way, the jostling. There was the shouted insults and the brutality of the mob, because it was a mob, and the things they said were unforgivable really. I remember that and then I remember an incident that occurred in Charlottetown where we entered a hall and the people at the door, including a man with a little baby three months old, screaming out and they started to jostle Mila. She turned around and said to him "look after your baby, you shouldn't do that with a baby". The baby was three months old and terrified with what was going on. But that gives you an idea of the nonsense that was going

on in the campaign in certain groups.

**Policy:** In 2017 as in 1987 the dispute settlement mechanism is a deal-breaker for Canada. Mr. Trudeau has said that, as you did at the time. Tell us about your famous conversation with Jim Baker on the evening of October 3, 1987 with the fast track authority of the president expiring at midnight and it was around ten o'clock in the evening, you were in your office in the Langevin Building and he was in his office at Treasury in Washington.

**Brian Mulroney:** Yes, and the Canadian negotiators were in an office that he had assigned to them. We had eight people down there led by Michael Wilson and Derek Burney. Eight key people and Jim Baker called me at Langevin and said "PM," I don't know why but he always called me PM—he said "PM we have done very well in our negotiations, I'm surrounded here by Lloyd Bentsen and other members of the House and the Senate and I think we have a great trade agreement for you and there is one item that is not going to fly" and I said "What's that?" and he said "the independent dispute settlement mechanism." And I said "Well, Jim, you've known from the beginning that this was a show-stopper for me. I have said publicly if there is no independent dispute settlement mechanism there's going to be no deal because how can it be otherwise with, as you know, an economy 10 times the size of ours subjecting us to American courts and laws and litigation practices, we would never come out of this alive." And he said "I'm sorry but the Congressional members who are with me view international trade as an exclusive jurisdiction of Congress under the Constitution and that this mechanism would dilute their authority, their constitutional authority and supremacy in international trade matters." I said, "Well, Jim, I'm sorry to hear that and I really have nothing more to add except that I'm going to be calling the president at Camp David and I just have one question for him." And he said, "What's that?" I

said, "I'm going to say to him 'Ron, how can it be that the United States of America can sign a nuclear reduction treaty with your worst enemies, the Soviet Union, but you can't sign a Free Trade Agreement with your best friends, the Canadians?'" There was total silence. Baker said to me, "PM, can you give me 20 minutes?" I said, "Sure". Now what I'm going to tell you, he never called me back, what happened was that 20 minutes later he walked into the boardroom where the eight Canadians were and he hauled a piece of paper out of his pocket, a handwritten piece of paper and he threw it on the table and he said, "There is your goddamn independent dispute settlement mechanism, now can we get this up to Congress before midnight when fast track runs out?" That was it, that's what happened and it almost ended the negotiations.

**Policy:** The Americans say they want to eliminate Chapter 19 and, to quote from their position paper, "Establish a dispute settlement mechanism that is effective, timely and in which panel determinations are based on the provisions of the agreement and submissions of the parties." There is probably not a problem with that from our side, is there?

**Brian Mulroney:** The way I read it I don't see a problem, there's nothing sacrosanct about the independent dispute settlement language, you can find other language that can cover the reality of what we need. I think they may have done that in the WTO and they have done it in CETA and they were doing it in the TPP. I'm not hung up on the language of this. I'm hung up on the principle.

**Policy:** And the panels as opposed to the American courts.

**Brian Mulroney:** If the parties can come up with different language that reflects that principle I've no problem with it.

**Policy:** Minister Freeland, in her speech at the University of Ottawa, also added to our list of deal-breakers

the cultural exemption, or the exemption for our cultural industries that you obtained from President Reagan in the FTA and I've often wondered—he was Mr. Hollywood and he had been president of the Screen Actors Guild, how did you get him to go along with that?

**Brian Mulroney:** I explained to him the fact that when you look at Canada and you look at the United States, now they have 320 million people, they would have had 275 or 280 million back then, all of them English-speaking. I said “You know Ron, you have to understand how fragile Canada's cultural industries really are, let me explain.” We would've had about 30 million people max at the time, but I said, “You know, 20 million of them are English-speaking the other 9 or 10 million are French so both sides here have a vested interest. The English-speaking of only 20 million are under intense pressure from the United States, which is another English-speaking country and from Hollywood and your movies. How do we compete with this giant coming at us daily over the airwaves, the newspapers, the media and the movies and so we need an exclusion that will help us develop our industry, both English-speaking and French-speaking? Both of which are small, relative to you, and fragile, very fragile. So, I've got to have this exemption for them.”

**Policy:** And what did he say?

**Brian Mulroney:** He said, “Let me think about it.” That was the first time there was any acknowledgement of the possibility and he came back, in fact I think it was Jim Baker who was instructed to call me and say, “Okay the president understands this and he thinks we should be on.”

**Policy:** And he knew at some level too that you needed this to sell the Free Trade Agreement to the Canadian voters or to take that issue off the table at least.

**Brian Mulroney:** Its absence would have opened a large constituency with access to the media and so on and so there would have been unnecessary

criticism from that quarter. In fact, even with it, that was part of the opposition to the Free Trade Agreement.

**Policy:** Your neighbour in Palm Beach, Wilbur Ross, the secretary of commerce, told you back in January that rules of origin and Chapter 19 were their two major re-openers. Rules of origin is very much in the news as these talks begin. As you know, North American content in automobiles needs to be 62.5 per cent in the assembly process both in the parts industry and the auto industry go back across the three borders six or seven times while they are being assembled, how can you change that rule and not disrupt the auto industry?

**Brian Mulroney:** Only with great difficulty. What is forgotten in this is that rule of origin really goes back to 1965 and the Auto Pact, which Simon Reisman negotiated on behalf of the government. That's a long way back, so the integration of the North American auto industry was essentially a *fait accompli* when we began negotiating. We rendered more sophisticated certain trade provisions there and we cast in concrete the 62.5 per cent and so on. And as you know both Canadian and Mexican auto parts providers, for example, have profited enormously but so have Americans to an equal degree. So, I think, can you make changes in this, of course you can, but the people who are best qualified to work this are the Magnas of this world.

**Policy:** Magna and Linamar are in all three countries.

**Brian Mulroney:** All three countries and they do it every day and if they have to go back and forth for seven or eight times to produce a final product, it is all coming out of the same pocket and it is all going into the other pocket, which is namely jobs and profitability. So, I think the larger problem on that discussion is going to be the exclusion the Americans would like on input from other countries, particularly China. This is part of a larger campaign that the Americans are running and trying, understand-

ably to some extent, trying to reduce that deficit of \$350 billion a year in their trade with China and they don't want the rules of origin provision to be a cover for anyone who is a stranger to these negotiations.

“ You had two G7 countries, highly industrialized giants, negotiating with a developing country and part of the inspiration was that it would be a model for others—that Mexico would become a developed country. That's what NAFTA did for Mexico. ”

**Policy:** And there are other industries such as the apparel industry where, for example, Peerless Clothing is the largest maker of men's and boy's suits in the world partly because the rules of origin enable them to bring in fabric from Europe and Asia.

**Brian Mulroney:** Exactly, but then again you may remember that in 1987 and 1988 during the campaign it was said by the opposition that, for example, our apparel industry would be wiped out and our wine industry would be wiped out and our automotive industry would be wiped out and look what's happened. So, I take a positive view of what may happen here. I'm not up to date on all the numbers but I think that it's 9 million jobs created in America, 5.2 million created in Canada and 6 or 7 million created in Mexico. This is one hell of an achievement for these three countries and you know there is something else to be said because they are zeroing in on the Mexicans a lot. When George Bush and I discussed this, one of the factors that he raised which is very relevant, he said, “You know Brian,” we are in the Oval Office and we are having this conver-

sation, after we have agreed on the thrust of NAFTA, he said “it won’t be mentioned but if we’re successful this will happen, namely that NAFTA will succeed to such an extent in Mexico that young Mexicans will cease trying to find employment in America and will start going home.” Well, last year was the first year in the last 25 years that that has happened and so there was a dimension of assistance to Mexico, because you had two G7 countries, highly industrialized giants, negotiating with a developing country and part of the inspiration was that it would be a model for others—that Mexico would become a developed country. That’s what NAFTA did for Mexico.

**Policy:** I wanted to ask you about some perennials in the trade file, supply management in dairy and poultry in particular, and softwood lumber, for which Minister Freeland says there is going to be a parallel negotiation. Not to mention California wines in Canadian stores. You’ve been in this movie before.

**Brian Mulroney:** I’ve seen the movie many times.

**Policy:** So what is your sense of supply management, because it’s on the government’s protected list, too?

**Brian Mulroney:** I think the Americans are going to come at this less vigorously than I would have thought initially. There is pro and con in it for them. Because they’ve got protection built in everywhere in their agricultural business. So, I think that this is not going to turn out in any way to be a deal-breaker. It’s going to be a tough negotiation but it’s not going to be a deal-breaker.

**Policy:** And softwood?

**Brian Mulroney:** Softwood, I was hoping that it would be solved, and I know that Wilbur Ross and Minister Freeland have been working hard on this all summer and I would have thought that it would have been settled today or tomorrow kind of thing. It’s not far from resolution and so the parallel negotiations that they

“ I think that Prime Minister Trudeau has done, and his immediate advisers, have done a first-rate job in dealing with the situation from the beginning. They were caught flat-footed with the results of the election but they’ve made a strong comeback. ”

are talking about should bring a settlement in softwood before the end of negotiations on NAFTA.

**Policy:** And the obvious trade-off is the Americans withdrawing the duties and the countervail that they have imposed and the Canadians accepting a smaller share than their 31 per cent current share of the U.S. market.

**Brian Mulroney:** Well in point of fact I don’t know how much of a hardship that would be for us, given the tragedy of those fires in British Columbia that has wiped out a significant part of our capacity to produce.

**Policy:** You’ve been consulted by Mr. Trudeau and his team. How do you think they are doing in managing this file and their relationship with the White House?

**Brian Mulroney:** I think that Prime Minister Trudeau has done, and his immediate advisers, have done a first-rate job in dealing with the situation from the beginning. They were caught flat-footed with the results of the election but they’ve made a strong comeback. They have been preparing diligently for this. They have sought to be inclusive by bringing in people of different backgrounds and political persuasions and so on and they have been thoughtful in their conversations with the Americans in advancing the cause and they have not taken the bait. The worst thing that the Canadians could have done or could do would be to respond to a tweet or a statement and get into a verbal fist fight with the Americans over something that is meaningless. My view was, and I’ve talked about it publicly, keep your mouth shut and your head down and prepare, prepare, prepare for the autumn negotia-

tions. All of these things that cause a furor and headlines can be dealt with at the negotiating table.

**Policy:** So your advice to Mr. Trudeau and his team about Mr. Trump taking to Twitter on this, as he did on supply management in dairy last spring, would be policy isn’t made on Twitter.

**Brian Mulroney:** That is exactly right. A deal is not going to be made on the front page of the *Washington Post*. A deal is going to be made at the bargaining table. That can only be dealt with by those three negotiating teams and our team is very impressive. The Trudeau government has taken what we did early in 1985, 86, 87—the outreach to industry, suppliers and so on across the country—and brought them in and so I think they are well prepared to handle anything that comes up.

**Policy:** You’re advising Mr. Trudeau and his team on this. Here we have a prime minister of one party and one generation reaching out to a prime minister of another party and another generation—Mr. Trudeau to you. As you go around the country do you get a sense that people like that?

**Brian Mulroney:** Oh, yes, they do. I hear about it pretty well everywhere. In the last couple of months, I’ve travelled across the country from Vancouver to Nova Scotia and what I heard about most was that people like it. They are reassured by it. You know, I’ve said publicly when this thing began there’s no Conservative way to negotiate a comprehensive Free Trade Agreement with the United States and there’s no Liberal way. There is only a Canadian way, so the more talent and unanimity and solidarity you have behind you if you’re the Ca-

nadian negotiator, the better off you are when you confront the Americans and the Mexicans at the bargaining table. Their outreach, I think of the Prime Minister himself, his principal secretary Mr. Butts and Minister Freeland and others, they've done a terrific job of that. As you know, they invited me and Ambassador Burney to meet with the Cabinet, that's probably a first in Canadian history. Everything else they are doing as a government, while it may be important, pales when compared to the success of the NAFTA negotiations.

**Policy:** Minister Freeland put two other progressive issues, as she termed them, on the table, asking for chapters on gender equality and Indigenous peoples. What are your thoughts on that?

**Brian Mulroney:** Well I haven't seen the language behind those principles.

**Policy:** They haven't provided specifics.

**Brian Mulroney:** I haven't seen anything on it so I don't know what that means. My own view is that while these are legitimate concerns I'm not sure that they will find priority ac-

ceptance in a trilateral trade negotiation where the deals that matter are over in excess of a trillion dollars a year by far. So, look, if we get the fundamentals right on this then we can deal with those matters in another forum if need be but if the Americans and the Mexicans want to deal with it, that's fine by me.

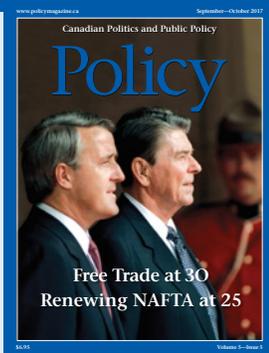
“ You know I've said publicly when this thing began there's no Conservative way to negotiate a comprehensive Free Trade Agreement with the United States and there's no Liberal way. There is only a Canadian way. ”

**Policy:** I just want to end on this note from Chrystia Freeland's speech in Ottawa referring back to 1987 and 1988, she said: “The Liberal party of that era, then in opposition, was against it, my own beloved mother who ran for the NDP in Edmonton-Strathcona, in Edmonton in 1988

was against it, Prime Minister Brian Mulroney, to give credit where due, staked his prime ministership on getting free trade passed and he was right.” This is coming from a Liberal minister of foreign affairs.

**Brian Mulroney:** Well, I'm glad to hear it. But you know, for anyone who participated in that election in 1988 it is something they will never forget, because if you compare what has happened in the last four or five elections here in Canada it's all pretty milquetoast compared with the importance and the significance and the substance and the disagreements and the brutality of the '88 election. Had we lost that election and the Free Trade Agreement, there would be no free trade. There would be no NAFTA. There'd have been no GST and where would we be today without all of those things? So it was a very consequential time and I'm happy to see Minister Freeland acknowledging that, you know, as is said in French *la nuit porte conseil*. After 30 years, people look at it and say “Maybe, he was right on that one.” **P**

*A conversation at the former prime minister's Montreal law office, August 18, 2017.*



SEPTEMBER 19, 2017

A Policy Magazine Working Lunch

## The NAFTA Talks

A PANEL DISCUSSION WITH  
AUTHORS FROM OUR SPECIAL ISSUE

**Sarah Goldfeder**, Principal, Earncliffe Strategy Group and former U.S. diplomat who advised two U.S. ambassadors to Ottawa as well as serving in Mexico.

**Meredith Lilly**, Simon Reisman Chair in International Affairs at Carleton University and former international trade adviser in previous PMO.

**Don Newman**, Senior Counsel, Navigator and Ensign Canada, *Policy* columnist and Chair, Canada 2020.

Moderated by *Policy* Editor L. Ian MacDonald

The Rideau Club

99 Bank Street 15<sup>th</sup> Floor

**Date:** September 19, 2017 **Time:** 12-1.30 PM

Tables of 8 @ \$1,000, 1/2 tables @ \$500

**Info:** info@policymagazine.ca or (514) 943-3868



Prime Minister Trudeau meets with Vice President Mike Pence during the National Governors Association summer meeting in Providence, Rhode Island. *Adam Scotti photo*

## *Verbatim:* The Elephant and the Moose

Justin Trudeau

*On July 14, Justin Trudeau took his case for free trade directly to American governors—the first time in its history of more than a century that the National Governors Association has heard from a Canadian prime minister. Trudeau wasn't in Providence to make news beyond driving home the point that he and his cabinet have been making on Capitol Hill and in state capitols for months; that Canada is far and away the United States' biggest trading partner, and that the NAFTA renegotiation should be, as Vice President Mike Pence put it, win-win-win.*

**I**t is my sincere privilege to be here with you today, to talk about some of the values we have in common, and some of the solutions to the challenges we all face.

I have to say I am flattered, and also a little bit surprised, that so many of you in the audience have chosen to be here now rather off at the beach catching that perfect wave. Maybe that's on the agenda for the weekend.

Or maybe you'll go searching for the

truth in a walk around the lake, to paraphrase the great poet Wallace Stevens.

Now, I have to tell you, Wallace Stevens is probably my favourite poet. By day, he worked in insurance up the road in Hartford, Connecticut, and by night he wrote some of the most spectacular poetry this country—and indeed, this world—has ever seen.

As I get to know this beautiful, historic corner of America a little better—the neatly tended fields and low stone walls, the apple orchards and spectacular ocean vistas—I’ve been thinking about Wallace Stevens.

In his poem *Theory*, he declares, “I am what is around me.” And it makes me think of the concept of home—what it means, and how we define it.

Of course, home begins with family. And it extends out from there—to school and places of worship, workplace, community, town, city, state and country.

But there’s an aspect of home that goes beyond our national borders—at least beyond the Canada-U.S. border, which is unlike any other. That is the idea, and the reality, of our common North American home.

This is the level where Newfoundlanders took in thousands of stranded American air travellers after 9/11—as chronicled in the award-winning Broadway musical, *Come From Away*. It is the level where, 100 years ago, New Englanders rushed to help their Nova Scotia cousins, after the Halifax explosion of 1917.

It’s the level at which, when the Plymouth-to-Newport sailing race got hit with hurricane-force winds, just a few weeks ago, Canadian Armed Forces personnel, ships and planes went immediately into rescue mode.

That’s what friends and neighbours do. We’re there for each other. We step up.

The Canada-U.S. border is sometimes referred to as “the longest undefend-

“*From NORAD, the only joint-command relationship in the world, to NATO, to counter-terrorism and to basic street-level policing, Canadians and Americans work shoulder-to-shoulder, keeping each other safe. As long as any of us here can remember, and further back than that, we have done this.*”

ed border in the world.” That’s actually wrong: Our shared border is very well defended. We defend it together, against common threats.

From NORAD, the only joint-command relationship in the world, to NATO, to counter-terrorism and to basic street-level policing, Canadians and Americans work shoulder-to-shoulder, keeping each other safe. As long as any of us here can remember, and further back than that, we have done this.

**A**nd that is the context in which I’d like to say a few words today about Canada’s outreach to the United States this year—which has been variously described by analysts and pundits as un-Canadian; exceptionally Canadian; unprecedented; highly predictable; and, perhaps most colourfully, a doughnut.

My friends, I’m here to tell you that our continuing conversation with all of you is none of those things. Not at all. On the contrary, it is solid, through-and-through.

It extends to all levels of governance and society. From my continuing, constructive dialogues with President Trump and Vice-President Pence; to chats between federal ministers and cabinet secretaries; to meetings between state governors and provincial premiers (including the Premier of Ontario, Kathleen Wynne, who is here today) to conversations between municipal leaders, to business and non-governmental organizations, to the thousands of personal and business ties that form the bedrock of our national bond.

During my time in politics, I’ve noticed this: Pundits—and I say this with the greatest of respect for our media friends—really seem to enjoy the word “strategy.”

If you have a plan it’s just a plan. Anyone can have a plan. But if you call it a strategy, suddenly journalists are leafing through Sun Tzu’s *The Art of War* and making oblique references to chess.

This has the effect of making the obvious seem complex. It makes for an interesting story. But our strategy—our plan—is actually extremely straightforward.

Canada is a confident, creative, resourceful and resource-rich nation. We are a wealthy and influential country, by world standards. But we are also a country of 35 million, living next door to one roughly ten times our size—and the world’s only superpower.

“*My father, Prime Minister Pierre Trudeau, once compared this to sleeping next to an elephant. But while you, my American friends, may be an elephant, Canada is no mouse. More like a moose—strong and peaceable, but still massively outweighed.*”

My father, Prime Minister Pierre Trudeau, once compared this to sleeping next to an elephant. But while

you, my American friends, may be an elephant, Canada is no mouse. More like a moose—strong and peaceable, but still massively outweighed.

And so, we need to work harder to make our points, to advocate for the interests of Canadian families in a way that will connect down here. That applies across the range of our national interests—from the fight against climate change, to job creation, to our common defence.

Because, let's face it, this is another truth about good neighbours: Sometimes we take each other for granted. Sometimes the very dependability and ease of a relationship can lead to us paying it too little attention. When that happens, the principals invariably live to regret it.

My friends, we in Canada decided we would not allow that to happen to our relationship with the United States of America. And I want to say that again for the folks back at home, because it's important.

When I talk about the importance of maintaining this relationship, I talk about it as a collective. I say “we” because this sentiment extends throughout the cabinet and caucus I lead, but it is actually bigger than our government or party. There is a high degree of support for this across Canadian society.

As I was saying: the Canada-U.S. relationship is far too important for us to assume that Americans are as focused on it as we are. Focused on just how interlinked our economies have become. And just how crucial this is to prosperity and security on both sides of the border—especially for the middle class, and those working hard to join it.

Given the imminent modernization of the North American Free Trade Agreement, which we welcome by the way, we felt compelled to tell you Canada's story, specifically as it relates to the United States.

It's a great story. And not just for the nine million American workers



“Canada buys more from the U.S. than China, Japan and the UK combined,” Prime Minister Trudeau reminds the National Governors Association in his keynote address. *Adam Scotti photo*

whose jobs depend directly on trade and investment with Canada. But for all Americans.

Now, some of you may have heard that last number before—along with the fact that two thirds of American states have Canada as their top export market.

This may have something to do with us repeating those numbers to U.S. audiences every chance we get.

The export number is true, by the way, for a majority of the states represented here today, including: Alabama, Arkansas, Colorado, Iowa, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, Montana, New Hampshire, North Carolina, North Dakota, Oklahoma, Rhode Island, South Dakota, Tennessee, Vermont, Virginia, and Wisconsin.

To boil this down to one point: Canada is your biggest, best customer—

by far. We're a bigger customer than China by roughly \$152 billion. Bigger than Japan or the UK. No one else comes close. In fact, Canada buys more from the U.S. than China, Japan, and the UK combined.

**“Canada is your biggest, best customer—by far. We're a bigger customer than China by roughly \$152 billion. Bigger than Japan or the UK. No one else comes close. In fact, Canada buys more from the U.S. than China, Japan, and the UK combined.”**

We have been consistent this year—some might say, relentless—in sharing that message, beginning in my regular dialogues with President Trump and fanning out from there.

**L**et me tell you why.

This is the most successful economic partnership in the history of the world. It's worth about a trillion dollars each year, and most importantly, it's balanced. More broadly, the North American Free Trade zone is the biggest economic zone in the world, comprising a \$19-trillion regional market of 470 million consumers.

The United States, Canada, and Mexico together now account for more than a quarter of the world's GDP. Since the trilateral agreement went into effect in 1994, U.S. trade with your NAFTA partners has tripled.

That accounts for millions of well-paying middle-class jobs for Canadians, and Americans. Free trade has worked. It is working now. And those ties have grown well beyond direct trade.

Canadians pay more than \$500-million annually in property tax, in Florida alone. And another 25,000 homes in Arizona are Canadian-owned. Something to do with the weather, I suspect.

But NAFTA isn't perfect. No such agreement ever is. We think it should be updated and modernized, as it has been a dozen times over the past quarter century. And I have every expectation it will be—to the ultimate benefit of working people in all three partner countries.

And I have to add this: We have been gratified by the serious, respectful response our outreach has met at all levels of American government. We thank our counterparts in the Trump administration for that, and we thank all of you.

The relationship between our coun-

**“ The United States, Canada, and Mexico together now account for more than a quarter of the world's GDP. Since the trilateral agreement went into effect in 1994, U.S. trade with your NAFTA partners has tripled. ”**

tries is historic. It is a model to the world. It is of critical importance for people on both sides of the border that we maintain it, and indeed, improve it. We must get this right.

Sometimes getting it right means refusing to take the politically-tempting shortcuts.

More trade barriers, more local-content provisions, more preferential access for home-grown players in government procurement, for example, does not help working families over the long term, or even the mid-term.

Such policies kill growth. And that hurts the very workers these measures are nominally intended to protect. Once we travel down that road, it can quickly become a cycle of tit-for-tat, a race to the bottom, where all sides lose.

My friends, Canada doesn't want to go there.

If anything, we'd like a thinner border for trade, not a thicker one.

Now, there are some really great arguments to be made for keeping our border thin when it comes to trade, even as we improve cross-border law enforcement that makes Canadians and Americans safer.

**W**e will continue to say to our friends and partners in Michigan and Ohio, for example: Consider cases like that of Magna International—a global automotive parts supplier headquartered in Ontario.

Founded in 1957, Magna today employs nearly 140,000 workers in 29 countries. Half those workers are in North America. Magna has 65 facilities in the United States, 60 in Cana-

da, 29 in Mexico.

Here's the point: Magna's supply chains span the border. To a car part, the border is invisible. Canadian components are repeatedly incorporated into more complex products before final assembly.

**“ Whether it's CN in Louisiana, or Hydro-Quebec in Maine, or Cott Corporation in Missouri, or countless other enterprises and projects across the States, Canadian energy, ingenuity and capital are there, helping you build America—just as American energy, ingenuity and capital are in Canada, helping us build our country. ”**

A hydroformed upper crossmember starts in Strathroy, Ontario. It's imported into Michigan for assembly into a carrier and then incorporated into a full front-end module in Ohio. Magna then sends the front-end modules to Chrysler for final assembly. And Chrysler exports the finished Jeeps around the world.

Or take Canam Group, the parent company of Canam Steel. Canam is headquartered in Quebec. It employs roughly equal numbers of Canadians and Americans. Its plants in Point of Rock, Maryland and Claremont, New Hampshire provide jobs that are vital to their communities. Canam's

market is the construction industry—which is a North America-wide industry, by the way.

There are, literally, too many examples of this to name.

Whether it's CN in Louisiana, or Hydro-Quebec in Maine, or Cott Corporation in Missouri, or countless other enterprises and projects across the States, Canadian energy, ingenuity and capital are there, helping you build America—just as American energy, ingenuity and capital are in Canada, helping us build our country.

And this, ultimately, is why I have such confidence in our shared future. And in the best efforts of every leader in this room, and in Washington, to nurture this relationship, to make it even better: We really are in this together.

I'm guessing that's because, as governors, you face common problems, and share many of the same goals. I

have no doubt you're focused on creating the conditions for good, well-paying jobs for the middle class in your states.

Whether Republican or Democrat, in this economy, that's probably your first priority. Well, guess what? It's my first priority as well. President Trump has told me it's also his. We all have this in common.

This challenge—how to ensure the benefits of commerce and trade are more broadly shared, so that every family can look forward to a brighter future—is among the most fundamental of our time.

My friends, I believe to my core that the most important challenge we face, as elected leaders, is that of creating lasting conditions for prosperity and security for all our people—in this, our shared North American home.

By virtue of our geography, by virtue

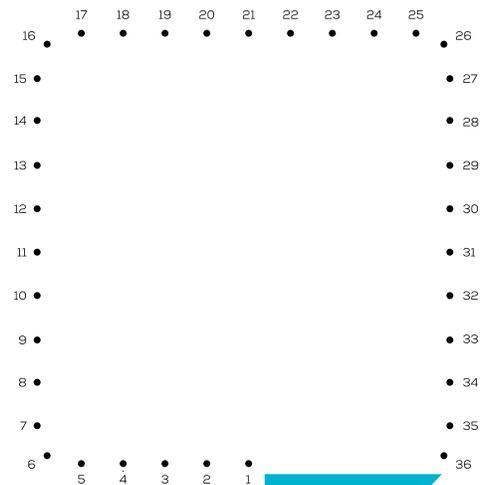
of our interlinked economies, this is work we are called to do together—within a modernized, renewed and strengthened North American Free Trade Agreement.

So, I will leave you with this: Let us meet this challenge. Let us keep talking, as neighbours and friends should. Let us roll up our sleeves. Let's get to work. And let's keep making history, together. **P**

*As delivered to the National Governors Association meeting in Providence, Rhode Island, July 14, 2017.*

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FOR THE RECORD

# North America at the Crossroads: Inward or Outward?

Frank Graves

Attitudes to trade wax and wane as the issue fades in and out of political discourse. We have now entered a moment where debates about trade are occupying centre stage in the political arena.

Attitudes to trade aren't simply about how to create a more prosperous economy: they also reflect broader cultural orientations to the external world, groups from different racial origins, and attitudes to issues such as climate change. At no moment in recent history has debate about trade received such salience. This prominence has produced deep fractures in advanced Western societies where trade is connected to deeper social

choices as to whether to pursue a more open or more closed society.

The winds of populism have fuelled shocking political disruptions in Brexit and the election of Donald Trump to president in United States. These forces are very much in play in Canada and connected to fundamental tensions which may usher in a new era.

Let's consider the evolution of public opinion on trade over the past 30 years in Canada, the United States, and Mexico, with a particular focus on Canada. This can be summarized in three key moments:

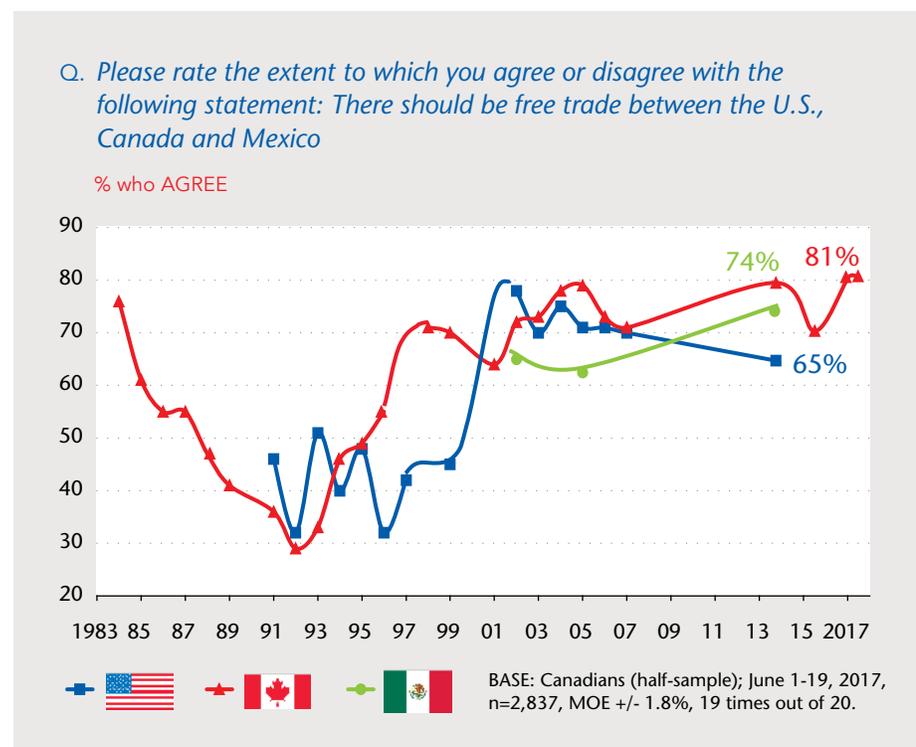
1) The first moment is defined by a

consensus approach in the nervous 90s as the debate about FTA and then NAFTA ensued. Indeed, there was pretty staunch opposition to trade in both Canada and the United States. Despite this, however, FTA and NAFTA were signed.

2) The second moment really becomes clear at the conclusion of the 20th century. At this time, we had pretty well consensual support for trade liberalization, which had been viewed with deep suspicion at the beginning of the decade. The world was now 'flat', the end of history had been proclaimed, and business cycles would no longer plague our economies which would be floated on an infinite cloud of prosperity fuelled by globalization, trade, and information technology. Canadians saw themselves as the new Phoenicians. This moment, of course, came under pressure and we saw fairly significant shifts in attitudes as we entered the 21st century and, in particular, the aftermath of September 11th which saw a steep rise in the sense that the world was not merely an oyster, but a source of dread and danger. We found that this frightened outlook on the world has only become more pronounced; in our last poll, we found that only three per cent of Canadians think the world has become safer over the past decade when, in fact, that is probably the right answer.

3) The third moment of public opinion, which has not yet clearly revealed itself, has seen a new age

Chart 1: Support for Trilateral Trade



of uncertainty and perhaps an age of disruption which has been fuelled by a protracted period of economic stagnation and rising inequality. This new period has left many citizens of countries such as Britain and United States feeling that they have been abandoned by the bargain of globalization. The white working-class in United States who, in the 80s and 90s, enjoyed middle-class membership on the basis of a strong back and a union card now find themselves in a situation where they have utter hopelessness about the future and smouldering anger about falling out of middle-class.

Although Canada, the United States, and, to some extent, Mexico have moved in lockstep in terms of attitudes to trade, there may be some emerging patterns of divergence. The rising support for trade in the first decade of NAFTA may not be surprising in light of the near brilliant performance of NAFTA in accelerating the standard of living and economic performance of all three member countries.

The second decade of NAFTA, which occurred in the long shadow of September 11th, saw a NAFTA “gap” which some estimate would be in the neighbourhood of \$1 trillion. In other words, if the economies had continued to grow at the same pace as compared to the rather tepid pace that they did in the first decade, another trillion dollars would have been injected into the North American economies.

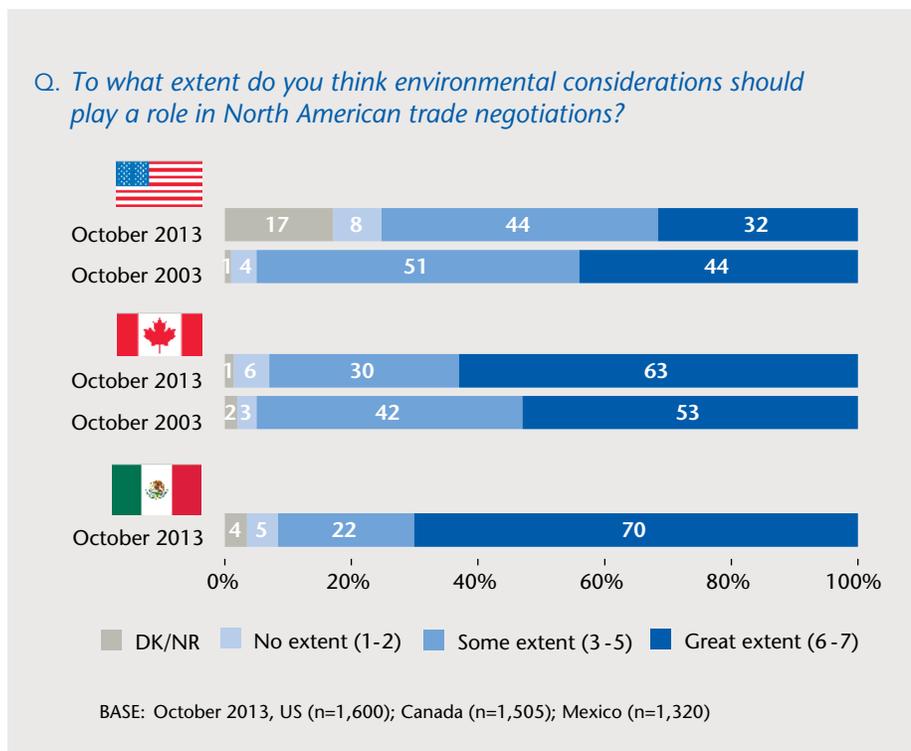
**“The surprising and disruptive impacts of both Brexit and the Donald Trump have yet to be fully revealed, but these are nonetheless fundamental shocks to the system which we will need to watch closely.”**

In this light, it may not be that surprising that the ardour for trade has

diminished, as has economic performance, particularly for average workers. The surprising and disruptive impacts of both Brexit and the Donald Trump have yet to be fully revealed, but these are nonetheless fundamental shocks to the system which we will need to watch closely. It may be that although North American countries have worked in lockstep in attitudes to trade over the past 30 years, this maybe now be diverging.

Our most recent Canadian data show that support for trade is at an all-time high. Canadians flirted with the “Closing of the Canadian Mind”, characterized by diminishing support for not only trade but for immigration and for foreign direct investment as well. However, this flirtation with heightened allergy to trade appears to have been ephemeral. Canadians seem to be opting for a more open approach, particularly with respect to trade, which has now reached an apex at the very moment where it appears to be in decline in United States. Our data showed a decline in support for trade in Canada from 2005 to 2013, while a comparable PEW study shows this slide may be continuing in the United States.

**Chart 2: Importance of Environmental Issues**



**“It remains likely that Canada and United States are now moving along different trajectories on issues of trade liberalization and on the broader question of the degree to which they want to pursue open versus closed societies.”**

It is notable that even though there has been a decline in support for trade, there is still a substantial majority in the United States that supports trade liberalization. If this is true, we urgently need to update these (and related) numbers to pro-

vide a fuller picture of where American society wants to go. It may well be the case that support for trade in United States is much more resilient than one would imagine given the narrative of the president or the Lou Dobbs type of commentariat. Nonetheless, it remains likely that Canada and United States are now moving along different trajectories on issues of trade liberalization and on the broader question of the degree to which they want to pursue open versus closed societies.

Some of our most recent data now three years old but still relevant suggest that we will be seeing some fundamental contradictions in the way Canadians and Americans want to approach the renewal of NAFTA. Putting aside pretty vivid differences in terms of the positions laid out by the respective governments, with Canada endorsing a so-called progressive vision which includes things like strengthening labour standards, heightened attention to the environment, easier movement of professionals throughout North America, greater access to public markets, and the maintenance of both the dispute mechanism and commitment to supply management. This approach appears to fly in the face an American desire to see greater protectionism, and little concern for environmental and labour issues. The Americans have also identified supply management and want the NAFTA dispute resolution mechanism abandoned.

The degree to which public opinion in the United States supports this approach is unclear and urgently needs updating. We could judge from a few years ago using, for example, the environment, where Canadian and Mexican publics put much stronger emphasis on environment being included in trade agreements, whereas the American public put less emphasis, which was dropping even further. These deepening divisions about the environment underline the challenge of coming up with a common vision about how to retool North America.

Another issue would be the relative role of Mexico. Some feel that in this new era, a bilateral U.S.-Canada approach would make more sense and public opinion does suggest that Americans have more favourable attitudes to trading with Canada than with Mexico. On the other hand, Mexico and Canada reveal great reciprocal sympathies for each other, probably a closer alignment on some of the key policy positions around environment, energy, and security. We should also not ignore the fact that some have pegged the Mexican economy as being the fifth largest economy in the world by 2050. It is possible that a renewed interest in a more muscular North America might be something which could re-establish itself, but it may also be the case that a strengthened North America falls by the wayside as a by-product of this period of disruption and nativism.

*“ We are in a period where trade has been vaulted to centre-stage as a consequence of the rise of populism and age of disruption. We are seeing fundamental questions about whether we want to pursue open or closed societies. ”*

In conclusion, we are in a period where trade has been vaulted to centre-stage as a consequence of the rise of populism and age of disruption. We are seeing fundamental questions about whether we want to pursue open or closed societies. This new outlook looks sharply different from the exuberant support for globalization and trade which accompanied the conclusion of the 20th century in upper North America. The winds of change have been fuelled

by populism which, in itself, most likely linked to a period of protracted economic stagnation, the end of progress, and the crisis of the middle class, which is operating very much in similar terms in Canada and the United States.

It also appears that although Canada and the United States have worked in relative lockstep on attitudes to trade, we may now be seeing the emergence of a period of sharp divergence. We also note that there may be formidable, perhaps irreconcilable differences in the basic vision of trade and the economy for the future laid out by the current NAFTA partners.

This debate about trade, while critically important in itself, is not just about trade. It is fundamentally linked to some of the more basic questions about what kind of country we want to hand off to future generations. Will we live in a society which is more open or closed to the world? This is not just about trade, but also issues connected to nativism, populism, and xenophobia versus a more open and cosmopolitanism stance. Canada has been buffeted by populist forces which we saw playing out in Brexit with President Trump's victory.

Finally, in a Canada which appears increasingly to have two fundamentally irreconcilable visions of the future (the conservative and progressive visions), the area of open trade provides an important area of societal consensus in this new age division. For that reason alone, it may be doubly important for Canada to insist on its path forward to be pursuing a more staunch commitment to trade in particular and, more generally, an open—not closed—society. **P**

*Contributing writer Frank Graves is President and CEO of EKOS Research, a national public opinion research firm. fgraves@ekos.com*



As the party of free trade, Andrew Scheer writes that the Conservatives will do their part to help deliver NAFTA 2.0, while as the Official Opposition holding the Liberals to account on delivering a good deal for Canadians. *Andre Forget photo*

# The Conservatives on NAFTA: Here to Help

Andrew Scheer

*As has been noted already during the NAFTA 2.0 process, including by the former Conservative prime minister who achieved the original deal in his Q&A in this issue, Canada is far more unified across partisan lines this time than it was three decades ago, when a brutal election was fought on free trade. Conservative Leader Andrew Scheer has some constructive input on how the Opposition this time, while less oppositional, can play an important role in securing an agreement.*

**T**he Conservatives are Canada's party of free trade.

This is a policy legacy of which we are immensely proud. Free trade agreements signed under Conservative governments have led to greater prosperity, job growth and opportunity for Canadians across our country.

It's not simply a matter of looking at trade statistics—free trade lowers prices for Canadian consumers and opens

up new markets for Canadian small businesses. Its positive effects are felt in every community in Canada.

Conservatives understand why Canadians are anxious about the North American Free Trade Agreement (NAFTA) re-negotiations. With 1-in-5 Canadian jobs linked to trade, it is clear that NAFTA is integral to Canada's prosperity. It is therefore not surprising to find out that the majority of Canadians are concerned about the ongoing re-negotiations.

The Conservative Party's proud history of free trade and these fundamental Canadian interests are top of mind for our MPs as Justin Trudeau engages in re-negotiations. After a decade in office, and with a solid record of expanding free trade access to over 50 countries, Canada's Conservatives have a great deal of insight and experience to offer.

Canada and the United States are the world's largest trading partners. Our trade relationship has created 550,000 jobs in the auto sector, 400,000 in forestry and 211,000 in aerospace. These industries, and dozens more, move over \$2 billion in trade over the Canada-U.S. border every single day. We are the top trading partner of 32 U.S. states, and approximately 9 million American jobs depend on trade with us.

**T**hese are the stakes as the Liberal government sits down to renegotiate NAFTA with the U.S. and Mexico. The numbers may be abstract, but the reality for millions of Canadians is that their jobs and livelihoods depend on this robust trade relationship. Canada cannot afford to bargain away access to the U.S. market. We can't allow protectionist rhetoric on either side of the border to undermine our ability to trade freely across the border.

I have been giving a great deal of thought to the question of how we define our role in this process, first and foremost as Canadians, but also as Conservatives, and as the Official Opposition.

**“ Conservative MPs have been reaching out to their American counterparts, and many have been to Washington over the course of this year. Many members of the Conservative caucus have experience in negotiating trade agreements and in building our continental relationship. ”**

Our Conservative Opposition will not be mere observers to this process. Indeed, we've already acted to promote Canada's interests directly with decision-makers in the U.S. My predecessor as leader of the Conservative Party, Rona Ambrose, moved quickly to defend Canada's interests, visiting Washington in January and taking Canada's case to senior American lawmakers like Sen. Orrin Hatch, Chair of the Senate Finance Committee. During a return visit in April, she met with U.S. Commerce Secretary Wilbur Ross, among others.

Conservative MPs have been reaching out to their American counterparts, and many have been to Washington over the course of this year. Many members of the Conservative caucus have experience in negotiating trade agreements and in building our continental relationship. Members of Parliament like Randy Hoback and Gerry Ritz have been working hard to promote Canada's interests and make sure their counterparts understand the importance of a robust and open trade relationship. Our Caucus will continue to assist the government by promoting the merits of free trade whenever they have the opportunity to do so.

Our Conservative Opposition wants to see Canada succeed at the negotiating table. That means doing everything we can to argue Canada's case and promote free trade, but it also requires the vigorous work of an Official Opposition, holding the government to account in Parliament.

It is our job as Her Majesty's Loyal Opposition to ask serious questions about the Liberal government's priorities in these negotiations. This is a duty we undertake with the great-

est respect to the values and interests I have outlined above. It is not a matter of routine partisanship, an accusation the government might well make in response to any criticism they receive during these negotiations. Conservatives won't seek to emulate the Liberal approach to free trade talks in the 1980s, when a Liberal MP famously remarked that his party would blame "every sparrow that falls" on the government. This is not our Conservative approach.

**W**e believe that a strong, principled Opposition will strengthen our negotiators' defence of Canada's interests in these talks. There is a parallel to be noted with the American trade negotiation process. The United States Trade Representative, Robert Lighthizer, is responsible to Congress. During his confirmation hearings at the U.S. Senate Finance Committee in March and April, Lighthizer was interviewed by senators of both parties, Democratic and Republican, over his positions on various trade issues. Ron Wyden, a Democrat from Oregon, demanded the trade representative take a hard line over softwood lumber. Pat Toomey, a Republican from Pennsylvania, wanted Lighthizer to oppose Canada's supply management program. Regardless of their party, every senator pressed the incoming Trade Representative to defend their state's interests in negotiations with Canada over NAFTA. This isn't seen as rote partisanship. It's the job of America's elected representatives.

American negotiators come to the table knowing they have to deliver something that will secure enough votes to pass through Congress. And this need to sell Congress on the deal

has its uses as a bargaining tactic, one that Canadian negotiators will find all too familiar.

**“The legacy of our landmark free trade agreement with the United States, and its subsequent expansion into the North American Free Trade Agreement with Mexico, is one of massive economic expansion, job growth and integration between our continent’s three large, dynamic economies.”**

We think pressure from an effective Conservative Opposition can serve the same purpose. That’s why Conservatives won’t hesitate to raise these important questions and to demand the government tell Canadians its plan to defend the jobs that depend on NAFTA. As we see Congress pressing American trade negotiators to take a hard line with Canada, we will push our government to defend, and even expand, our trade access to the American market. When the Liberal government fails Canadians on major trade issues Conservatives will hold them accountable. For example, the Liberal government’s inability to secure a softwood lumber agreement with the former Obama Administration left the Trump Administration with significant leverage over Canada at the NAFTA negotiating table because of the tens of thousands of jobs that are created by our forestry sector. The Liberals will also find increasing difficulty making the case that U.S. firms need access to the Canadian market as they pursue misguided economic policies that raise the cost of operating a business in Canada. Conservatives have not hesitated to point out the problems these Liberal failures have created for our position in this negotiating process.

**W**e will also be pushing the Liberals to go beyond just meeting with politicians. When the U.S. threatened Canada with their “Buy American” policy, the previous Conservative government did not just make our case to Washington by ourselves. Instead, we found businesses all across the U.S. that employed American workers thanks to trade with Canada. We had them help make our case for us; they helped us convince U.S. lawmakers that it was also in their country’s interests to keep our borders open. The Liberals need to be doing much more of this kind of heavy lifting. I believe that Donald Trump is much more likely to agree with Canada’s position if he is convinced of the benefit to his own country.

**“We will do whatever we can to promote Canada’s case south of the border, but we will also hold the government to account when we believe Canadian jobs could be at risk. NAFTA is a historical legacy of the Conservative Party, and we will not stay silent when Canada’s prosperity is threatened by U.S. protectionism, or Liberal mismanagement.”**

Above all else, these negotiations should not be handled with a wait-and-see approach. We need clarity on Canada’s plan and on what we expect to win through these negotiations. Getting these answers and holding the government accountable is central to our role as Her Majesty’s Loyal Opposition. This is not blind partisanship; it’s our Parliamentary democracy at work.

The legacy of our landmark free trade agreement with the United States, and its subsequent expansion into the North American Free Trade Agreement with Mexico, is one of massive economic expansion, job growth and integration between our continent’s three large, dynamic economies. Millions of jobs across the continent depend on free trade between our countries, a fact Canadians understand well. This is why Conservatives take these NAFTA negotiations with the utmost seriousness. We have a very important role to play, and a great deal of wisdom and experience to offer. We will do whatever we can to promote Canada’s case south of the border, but we will also hold the government to account when we believe Canadian jobs could be at risk. NAFTA is a historical legacy of the Conservative Party, and we will not stay silent when Canada’s prosperity is threatened by U.S. protectionism, or Liberal mismanagement. **P**

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# A Fine Balance: Trade Deficits and the New NAFTA

Michael Gregory

*As with so many elements of policy, Donald Trump has made it clear that he takes trade deficits personally. In its submission of its negotiating objectives for the trilateral renegotiation of NAFTA that began in August, his administration listed the aim of improving America's balance of trade with Canada and Mexico. Here's a breakdown of the numbers.*

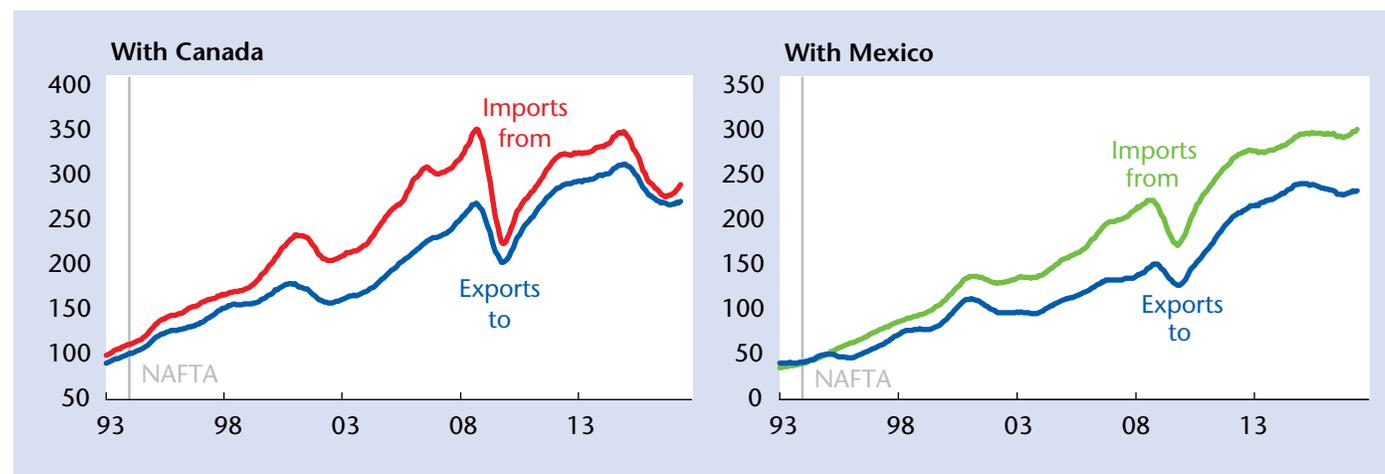
The first round of NAFTA negotiations between the United States, Canada and Mexico was held in Washington, D.C. on August 16-20. Interestingly, August 16 was the earliest talks could commence after the Trump administration formally notified Congress (on May 18) of its intention to reopen the 23-year-old trade agreement. The U.S. legislation mandating the minimum 90-day consultation period also compelled the administration to publicize its objectives one month before the opening of talks, which it did on July 17. The 17-page *Summary of Objectives for the NAFTA Renegotiation* contained 117 “specific negotiation objectives” along with scores of sub-objectives.

The first specific objective sums up the administration's intentions succinctly, to “improve the U.S. trade balance and reduce the trade deficits with the NAFTA countries”, with respect to trade in goods. The U.S. goods and services trade deficit has stabilized in recent years, running in the \$450-to-\$550 billion range, which is well below the record shortfalls registered before the Great Recession (*Chart 1*). It benefited from two trends; a growing trade surplus in services (recently hitting record highs) and a shrinking trade deficit in petroleum (recently running at 18-year lows owing to the fracking boom). However, this also means the U.S. trade deficit in non-petroleum goods has steadily deteriorated, now running at record highs

above \$700 billion. Unfortunately, reducing the trade shortfalls with the NAFTA countries won't make much of a dent in America's total trade deficit.

In 2016, the U.S. goods trade deficit (both petroleum and non-petroleum) totalled \$737 billion, with China accounting for nearly half the shortfall (Table 1). This is five times more than the next largest contributor, Japan (at 9.3 per cent). Germany accounted for slightly more of the deficit than Mexico, but the shares are comparable (in the 8 per cent-range). Canada came in 15th at 1.5 per cent, with a surplus in trade in goods of \$11 billion, but when a U.S. surplus in services is included, the Americans enjoy a \$12 billion surplus with Canada. As an

**Chart 1: NAFTA: Tale of the Tape**  
Trade in Goods—United States (U.S.\$ blns: 12-mnth m.s.)



Sources: BMO Economics, Haver Analytics

**Table 1: Trade in Goods (Census Basis)**  
**Select Bilateral Trade Statistics, U.S. 2016**

	Deficit			Exports		Imports		Imports/ Exports
	(\$ blns)	(% total)	Rank	(\$ blns)	Rank	(\$ blns)	Rank	(ratio)
China	347.0	47.1	1	115.6	3	462.6	1	4.00
Japan	68.8	9.3	2	63.2	4	132.0	4	2.09
Germany	64.7	8.8	3	49.4	6	114.1	5	2.31
<b>Mexico</b>	<b>64.4</b>	<b>8.7</b>	<b>4</b>	<b>229.7</b>	<b>2</b>	<b>294.1</b>	<b>2</b>	<b>1.28</b>
Ireland	36.0	4.9	5	9.6	25	45.5	10	4.76
Italy	28.6	3.9	6	16.7	19	45.3	11	2.71
South Korea	27.6	3.7	7	42.3	7	69.9	6	1.65
Malaysia	24.8	3.4	8	11.8	22	36.6	13	3.10
India	24.4	3.3	9	21.7	17	46.0	9	2.13
Thailand	19.0	2.6	10	10.4	23	29.5	15	2.82
France	15.6	2.1	11	31.1	11	47.7	8	1.50
Switzerland	13.6	1.8	12	22.8	15	36.3	14	1.60
Taiwan	13.2	1.8	13	26.0	14	39.2	12	1.51
Indonesia	13.2	1.8	14	6.0	28	19.2	17	3.19
<b>Canada</b>	<b>11.0</b>	<b>1.5</b>	<b>15</b>	<b>266.8</b>	<b>1</b>	<b>277.8</b>	<b>3</b>	<b>1.04</b>
Euro Area	126.0	17.1		199.9		325.9		1.63
NAFTA	75.3	10.2		496.5		571.8		1.15

Sources: BMO Economics, Haver Analytics

economic bloc, the euro area's share of the U.S. trade in goods deficit was 17.1 per cent, much larger than NAFTA's 10.2 per cent. So, even if NAFTA trade shortfalls were sliced in half, the U.S. would still be running \$700 billion-plus deficits.

The U.S. currently runs surpluses in services trade with both Canada and Mexico, mirroring its global performance. The services surplus was \$24 billion with Canada in 2016, pushing as noted above the total goods and services trade balance into surplus territory for the U.S. The services surplus was \$7 billion with Mexico, leaving the total trade balance deep in deficit territory. The negotiation objectives also cover trade in services, citing specifically telecommunications and financial services.

**I**n addition to representing a relatively small share of the total trade deficit, U.S. trade with Canada and Mexico is much more

equitable compared to the other deficit-contributing countries. Canada is America's largest export market, followed by Mexico; Mexico is the U.S.'s second-largest import origin (China is the largest), followed by Canada. In the case of Mexico, the seemingly large \$64 billion trade deficit reflects \$230 billion in exports and \$294 billion in imports, with the latter 28 per cent above the former. You can think of the import-export ratio as a barometer of a trade imbalance's equitableness. Exports create domestic employment and production, but imports compete with domestic jobs and output. So, the smaller the import-export ratio the more the benefits of exports are offsetting the cost of imports. Despite displaying similar-sized deficits, Mexico's ratio is well below Germany's. China's deficit is not only the largest by far but it's also among the most inequitable. Canada's shortfall is the most equitable, when viewed through this narrow lens.

The press release accompanying the negotiation objectives said "since NAFTA was implemented in 1994, the U.S. bilateral goods trade balance with Mexico has gone from a \$1.3 billion surplus to a \$64 billion deficit in 2016." While this is correct (*Chart 2*), it would be incorrect to conclude that the trade imbalance with Mexico is pervasive. Indeed, the U.S. ran a \$74 billion deficit with Mexico in motor vehicle and parts alone in 2016, meaning it had a \$10 billion trade surplus across all other goods combined. Nevertheless, President Trump has been fixated on the loss of automotive jobs and production to Mexico... recall his threat to impose a 35 per cent tariff on vehicles imported from Mexico and browbeating of U.S. auto industry executives to assemble more vehicles at home. It should be noted that U.S. vehicle assemblies are currently not far off pre-recession levels because of access to cheaper parts from Mexico that help offset higher U.S. labour costs.

The press release didn't cite the trade imbalance with Canada, which, at \$11 billion in 2016, was actually smaller than what it was when NAFTA was implemented in 1994 (\$14 billion) (*Chart 2 again*). However, at times, the deficit with Canada has been larger than Mexico's, reflecting episodes of high oil and other commodity prices (or an excessively weak loonie). The recent trend of smaller trade deficits with Canada (with a sprinkling of individual months in which the U.S. posted trade surpluses) not only reflects the collapse in oil prices. It also reflects Canada's loss of export competitiveness to Mexico (partly currency related) and export capacity during the Great Recession that has been slow to be replaced. Instead, the press release said: "Market access issues have arisen in Canada with respect to dairy, wine, grain and other products—barriers that the current agreement is unequipped to address."

Similar to Mexico, America's trade imbalance with Canada is also not pervasive. In 2016, the U.S. ran a \$39 billion deficit in energy trade





Prime Minister Trudeau and President Trump prior to their joint news conference at the White House on February 13. *Adam Scotti photo*

# Letter From the Swamp: NAFTA is Dead; Long Live NAFTA

Paul Frazer

*Donald Trump's implausible presidency has altered every aspect of life in Washington, from how the White House is covered to how and whom lobbyists lobby. As veteran transplanted Canadian Paul Frazer writes, when the going gets frenetic in the NAFTA negotiations, the Canadians should just chill.*

**T**he Trump administration's first summer has been atypical for Washington, DC. Whenever we think the White House might be on track, another political meteor suddenly appears and knocks everything off balance. The object is not from outer space but from the very heart of the presidency. This is the pattern the president set on his first day in the White House and from week to week we witness more chaos overall and minor progress on the president's key agenda issues.

In Washington, long-awaited NAFTA negotiations began against a backdrop of significant legislative failures, dogged political scandals and an ongoing set of investigations reaching into the president's innermost circle.

The three NAFTA governments have marshalled their resources and have prepared their position papers in anticipation of an uncertain outcome.

They have canvassed their respective stakeholders, know their negotiating "asks" and have identified their "lines in the sand". The political calculus has been made in each capital to determine negotiators' parameters. Opening statements have been made; we know the general outline of priorities and have a sense of the rhetoric that will at times portray the nature of the discussions.

There will be tension and, at times, high drama; this will not be a surprise. As in previous negotiations, political leaders will not only focus on priorities and outcomes but must remain open to shifts in stakeholder demands and be sensitive to what compromises will be acceptable at home.

**“Based on President Trump's actions to date we should expect the president to tweet aggressively to impact public opinion, speak to his political base, and serve to bring leverage to bear on the talks.”**

Digital commerce, intellectual property rights, dispute settlement and pharmaceuticals are—among many complex subjects—on the agenda, but it is social media that will bring a very different and possibly game-changing element to the negotiations environment. It will be a strategic weapon intended to influence

negotiations and the perception of who has the edge.

Based on President Trump's actions to date we should expect the president to tweet aggressively to impact public opinion, speak to his political base, and serve to bring leverage to bear on the talks. It is too early to tell to what degree this will be employed and what effect this will have on the negotiations themselves or on political sentiment in the U.S., Canada and Mexico.

The return of Congress ushers in a period of increasing domestic political discontent in Washington. Although Trump has the NAFTA negotiation he agreed to, this is very different from the NAFTA withdrawal that he had as a campaign priority. The U.S. entered negotiations at the direction of a president who needs a major "win" to prove he can deliver on a core campaign promise. He has failed dramatically in his quest to pass much-heralded legislation in the first eight months of his tenure and serious political face is riding on these negotiations.

The president, if true to form, will focus not so much on policy aspects but on his desired outcome and his potential signature on the document—presuming there will be a document to sign.

Rhetoric and marketing will be critical elements in Trump's sale of any new agreement to the voters; something each NAFTA leader will also need to do. But as with everything else about this administration, for Trump the exercise will be "oversized".

For the United States, the NAFTA negotiations will play out in a domestic setting of general chaos, legislative battles, majority party disunity, minority party existential struggles, Congressional investigations and the work of an independent counsel. Battles in the Congress and disagreement with the White House over the federal budget, the debt ceiling, tax reform and more health care debate will absorb

large amounts of political oxygen.

It will be very difficult to insulate the negotiations from the daily events of a turbulent and politically charged U.S. capital.

We can't minimize the daily distraction these factors create for a president so intimately involved and who so openly and forcefully rebels against any challenge to his standing and that of his family. He is increasingly under siege and his actions speak to the threat he perceives at hand. His inclination will be to create dramatic distraction to serve his self-preservation.

The Congress by law has an important voice on the process and substance of NAFTA negotiations. Many legislators are highly skeptical and in some critical quarters there is outright opposition to key features of the existing agreement. The ongoing animosity across the political aisle and the disunity within the Republican party collide with a president who ineptly deals with a Congress he cannot control and with which there is an ever-widening political gap.

Canadian and Mexican leaders must take these factors into serious consideration and determine what they can do to affect the broader environment while simultaneously pursuing what will be tough negotiations on a wide range of sensitive national issues.

The administration would like to conclude the NAFTA agreement by early 2018. This is very optimistic given the congressional calendar, political reality and certainty of unanticipated events. In some of the areas to be negotiated, especially in areas new to NAFTA, there may be elements of the Trans-Pacific Partnership (TPP) package that can be reasonably transferred to NAFTA, enabling relatively swift agreement on selected important areas.

However, no one can predict when this frenetic president will aggressively insert his views on any general and/or specific aspects of the negotiations. Tweets are not policy but they will impact the atmosphere of

the negotiations, impinge on the U.S. negotiating team's daily efforts and play with the psyches of the Canadian and Mexican negotiators.

Presidential tweets can put every aspect of the NAFTA negotiation to the test of public scrutiny. We can expect Trump, increasingly isolated politically, to wade forcefully into the negotiations in his own way.

The challenge for negotiators and political leaders will be to see these tweets for what they are—electronic outbursts signaling the president's perception of events and/or his immediate sense of the precariousness of his situation. These impulses will reflect his every instinct to defeat the other two partners in the negotiations. In his view, success will be on his terms; any product will have to have his stamp all over it. Can Canada and Mexico avoid rising to the bait or in some cases play these factors to their advantage?

For Canada, as Foreign Affairs Minister Chrystia Freeland put it on August 14, "the softwood lumber negotiations will continue in parallel with the NAFTA negotiation". The political and strategic challenge will be increased. We know how softwood has had a corrosive impact on the bilateral relationship. If Canadians see the U.S. foot dragging, carping from the Congress, and less than good faith on softwood, this issue could regrettably infect the NAFTA negotiations.

Canada must maintain its energetic strategic advocacy in the United States. Ottawa, the provinces and other Canadian stakeholders must continue to travel the country targeting Washington and elsewhere those leaders critical to Canadian interests.

By the end of July, President Trump's persuasive powers with the Republican congressional majority had severely diminished. His threats to Senators identified as weak supporters or opponents on health care reform and repeal had lost their impact. The Congress has demonstrated that on foreign affairs it will pass legislation

**“Senators and House Members are more knowledgeable (in part thanks to Canada's actions) about the fundamental importance of NAFTA trade and investment. Their broad priority is that the negotiations do no harm to the economic and trade relationship critical to the economic well-being of their districts or states. They will not easily be rolled by the president on these issues.”**

that both directs and constrains the president, notably on the economic sanctions primarily aimed at Russia.

It is a truism that every statement and every vote in the House and the Senate is determined in the end not by party loyalty but on the basis of political survival. Individual decisions are made according to the political calculus of each representative or senator considering constituent interests and sentiments and how a vote will affect his or her re-election prospects.

For the 435 Members of the House, the November 2018 mid-term elections loom large and evoke a degree of skittishness about re-election. Those Senators not up for re-election until 2020 are more immune from the immediate threats; for the moment their time-frame is like a bullet-proof vest when it comes to attacks from the president and his acolytes.

The mood in Washington is gloomy; everyone feels pummeled on a daily basis. President Trump is under siege and the Congress is increasingly defiant of the White House. Republican committee chairs, especially in the Senate, are flexing their political muscles. They have many ways to out wait a president, to deny him timely confirmations of those nominated to senior positions or to thwart his budget and policy wishes. They, with their House counterparts, set the congressional agenda; in some cases the agenda for the rest of 2017 is set very much in stone. This leaves little room for the president to influence or bully Members of Congress to follow his commands.

The Congress has a strong voice on NAFTA and we should expect that

voice to be loud and clear regardless of Trump's negotiating priorities. The Congress is showing greater determination to more fully play a separate and equal role vis-à-vis the White House. Senators and House Members are more knowledgeable (in part thanks to Canada's actions) about the fundamental importance of NAFTA trade and investment. Their broad priority is that the negotiations do no harm to the economic and trade relationship critical to the economic well-being of their districts or states. They will not easily be rolled by the president on these issues.

Given what we have witnessed these last eight months, NAFTA negotiators will struggle to keep the talks at the table and less in the realm of public political mud wrestling that the White House seems to favor. At the end of the day, as some may speculate, perhaps the NAFTA we know becomes the "non-NAFTA" and is called the "North American Agreement on Economic Prosperity and Job Creation" eagerly marketed across the United States as a huge win for the President. As in other successions: NAFTA is dead; long live NAFTA. **P**

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Chrystia Freeland, then international trade minister, reviews her notes prior to the North American Leaders' Summit in Ottawa, June 29, 2016. Public Safety Minister Ralph Goodale looks on. *Adam Scotti photo*

# The NAFTA Road Ahead: Why Canada Must Be in the Fast Lane

Meredith Lilly

*In multilateral trade negotiations as in so many things, timing is everything. The NAFTA 2.0 process is unfolding under certain time constraints involving Mexico's July 2018 election and a concurrent schedule for the Trump administration to renew fast track authority or Congress not to. As Meredith Lilly, Simon Reisman Chair at Carleton University, writes, Canada should strategize accordingly.*

As it seeks to renegotiate NAFTA, the Trump administration rages from one political crisis to the next. A tipping point may have arrived following the events in Charlottesville, when increasing numbers of Republicans and U.S. business leaders formally distanced themselves from the president. Moving forward, Republican members of Congress will be less inclined to give the president any political wins that don't also reflect their own goals for governing—especially as

U.S. mid-terms approach. This means that a renegotiated NAFTA deal must increasingly respond to the views of Republican members in order to clear the necessary Congressional hurdles. This erosion of Trump's authority within GOP circles improves the political calculation considerably for Canada and Mexico.

But before addressing what a new NAFTA might look like for Canada under an emboldened Republican Congress, we must first turn to the negotiation timeline. The U.S. has set up a dizzying schedule of seven rounds over five months, which some trade experts have dismissed as unrealistic. But many interested observers do not appreciate the importance of Mexico's upcoming election in steering the direction and pace of these NAFTA talks. Even if the Trump administration were not imploding, Mexico's 2018 election has been that country's NAFTA 2.0 "trump card" all along.

Mexico's presidential elections will be held in July 2018, but the associated political disruption will stretch over eight months from approximately March (when campaigning heats up) to December (when the new President is sworn in and following U.S. mid-terms). Term limits bar Mexico's current president, Enrique Peña Nieto, from running again, and his party is unpopular. Meanwhile, left-leaning populist challenger Andrés Manuel López Obrador is leading in the polls. He is fiercely anti-Trump and opposes Peña Nieto's reforms to open Mexico's energy markets to foreign investment. If elected, López Obrador could jeopardize the entire negotiation. While much could change to thwart López Obrador's chances of victory next summer, both Peña Nieto and the Trump administration must now roll out a NAFTA negotiating strategy as if López Obrador could win.

But to be clear, Mexico would concede little in an accelerated negotiation. There is just no reason for a weakened, outgoing Mexican president to stain whatever legacy he hopes to leave behind by making major concessions to Trump. In that

**“ A renegotiated NAFTA deal must increasingly respond to the views of Republican members in order to clear the necessary Congressional hurdles. This erosion of Trump's authority within GOP circles improves the political calculation considerably for Canada and Mexico. ”**

respect, Peña Nieto may be driven to conclude an agreement to protect his own energy reforms from an uncertain future by entrenching new investment and energy commitments into a revised NAFTA.

With the other two NAFTA partners strongly motivated to achieve a deal quickly, Canada has no choice but to join them on the turnpike. Ironically, the 2017 NAFTA dynamics are shaping up to repeat the Trans-Pacific Partnership (TPP) conclusion two years ago, when Canada was heading into its own federal election. With major TPP countries determined to strike an agreement—driven by Barack Obama's departure from office—Canada was forced to either continue negotiating into the 2015 election or risk being left out of the agreement entirely.

Of course, events at the negotiating table can easily slow things down. As much as U.S. Trade Representative Robert Lighthizer would like to reach an early deal, he still must deliver enough “wins” to Trump's supporters to avoid another presidential threat to withdraw from NAFTA entirely. A thin, rushed deal would weaken Republican chances in the mid-terms among key constituencies of voters, making the promise of a delayed, comprehensive deal more attractive by comparison. To balance such interests, the U.S. will require some specific victories if any agreement is to be reached by early 2018.

**S**o, if a quick deal happens, what could that realistically look like for Canada? Of course, we can expect new chapters on e-commerce, labour and the environment, and expansion of trade in services. Although there is plenty of potential controversy

to sideline progress on these chapters (Mexico will be defensive on labour and the environment while Canada will defend its culture, telecom and financial services sectors), the three countries also share common goals that will help them find agreement. Achieving those gains—combined with the many unmentioned and non-controversial changes that have already achieved consensus—would represent major advances to benefit all three economies.

But in other areas where Canada is threatened by Trump's goals, we can find safety in numbers with Mexico and moderate Republicans in Congress. This is good news for the auto sector in all three countries, since few American legislators are on board with their president's scorched-earth intentions to kill the sector's competitiveness through stronger U.S. content requirements. Although the 62.5 per cent NAFTA content threshold may in fact rise, auto manufacturers also may not need to change their sourcing practices as a result. For example, if the industry's requests to allow software and systems design to be reflected as NAFTA regional content, the industry could meet a higher regional content standard without revising its core practices. If negotiators instead focus on modernizing NAFTA's outdated tracing system, the auto sector could be more competitive as a result.

Canada and Mexico's interests are also aligned on the need to maintain key aspects of dispute resolution, to fend off any new American attempts to introduce country of origin labelling, and to resist U.S. proposals to advance sub-national procurement in Mexico and Canada while blocking reciprocal access to U.S. markets. Since the same U.S. threats that undermine Canadian

interests would also be bad for Mexico, the U.S. administration is unlikely to succeed with those goals on an accelerated timeline.

**“Canada and Mexico’s interests are also aligned on the need to maintain key aspects of dispute resolution, to fend off any new American attempts to introduce country of origin labelling, and to resist U.S. proposals to advance sub-national procurement in Mexico and Canada while blocking reciprocal access to US markets.”**

Instead, Canadian sectors should worry most where Canadian interests are isolated from those of Mexico and mainstream Republicans. Canadian dairy will certainly be targeted by the U.S., which will push Canada to offer comparable market access to TPP negotiations (3.25 per cent). Meanwhile, both American and Mexican dairy industries have cooperated with other countries to request a World Trade Organization investigation into Canadian regulatory changes around the classification of milk ingredients. Given the level of attention to this specific matter in Washington, it seems inevitable that Canada’s dairy ingredient strategy and associated pricing structures will be targeted at the NAFTA table. Since Foreign Affairs Minister Chrystia Freeland has made no public commitments to Canada’s dairy sector beyond keeping the supply management system intact, Canada still has room to negotiate.

Other areas where Canada is perceived to be protectionist or acting unfairly toward American interests will also be easy targets for a president who uses populist resentment

to wage political wars. The easier it is to explain a given trade dispute in 140 characters, the greater the risk to Canada. This is one of the reasons Canada’s very low *de minimis* level of \$20 for on-line shopping is being targeted. Other changes in NAFTA could have much more serious implications for Canada, but few can offer Trump an equivalent political pay-off.

**W**hat about Freeland’s goals for Canada in the negotiations—new gender and indigenous chapters and changes to temporary entry for skilled professionals? Nice as the first two may sound, if Freeland succeeds, the chapters are likely to be largely symbolic and devoid of any enforceable measures (as per the Canada-Chile gender chapter on which Freeland wants to model NAFTA). In addition, since countries negotiate trade agreements from a position of self-interest, Canadians should ask what Freeland is willing to trade away to get Mexico and the U.S. to sign on.

And while it would be tremendous if Canada were able to modernize temporary entry provisions in NAFTA, we face separate challenges over that issue. My own research traces the history of temporary entry in U.S. trade negotiations, starting with NAFTA. In short, ever since the U.S. Congress reluctantly approved temporary entry provisions in its free trade deals with Chile and Singapore in the early 2000s, Congress has forbidden U.S. trade negotiators from inserting such provisions again.

More than a decade later, little has changed. In 2015, even when all 11 other TPP countries negotiated a temporary entry chapter, the U.S. under Obama’s leadership stood alone in its refusal. It is difficult to imagine how Lighthizer could now slip this politically sensitive issue into NAFTA negotiations without having signaled any intention to do so. On this point, it is important to note that Lighthizer’s July 17 letter outlining U.S. objectives for the negotiations was not a political stunt: it fulfilled a legal

requirement to consult Congress and outline “a detailed and comprehensive summary of specific objectives” for using the same U.S. legislative instrument once intended to pass TPP to instead modernize NAFTA. Despite an awareness that modernizing labour mobility provisions would be a key objective for both Canada and Mexico, Lighthizer’s letter was silent on the topic. Although Canada should certainly try to modernize the list of NAFTA skilled professionals, we will need considerable help from U.S. business leaders who can both benefit and influence Congress.

**“Areas where Canada is perceived to be protectionist or acting unfairly toward American interests will also be easy targets for a president who uses populist resentment to wage political wars. The easier it is to explain a given trade dispute in 140 characters, the greater the risk to Canada.”**

And what if the fast track to NAFTA 2.0 fails and negotiations are put on the back burner through the long Mexican electoral siesta? Canada will have months to ponder its goals for a more scenic tour of NAFTA, but it is difficult to imagine how negotiating conditions will improve for Canada the longer the process drags on. Some will wager that Donald Trump will be out of office before negotiations can resume. But for those not willing to gamble such dangerous odds, Canada’s best bet is to hunker down and work quickly. **P**

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# Getting to NAFTA

## THE STRATEGIC PRINCIPLES DETERMINING CANADA'S APPROACH

John Delacourt

*Many in Ottawa—and in Washington, for that matter—were baffled by the Trudeau government's pre-emptive offer to re-open NAFTA in the hours immediately following Donald Trump's election victory. But while the American president's volatility demands the sort of diplomatic innovations normally exerted in dealing with rogue states, long-time Liberal strategist John Delacourt says the Trudeau team's got this.*

At the time of this writing, the first round of the North American Free Trade Agreement (NAFTA) negotiations—or renegotiations, if you will—has just concluded. What promises to be the most important policy process for the Canadian economy and a pivotal test for the Trudeau government has been upstaged by the ongoing turmoil of the Trump administration. It is difficult not to read any positive developments or setbacks in the negotiations as provisional, given the leadership crisis at the White House. Yet, within the Prime Minister's Office (PMO) and the Privy Council (PCO), the strategic focus on the importance of these talks has not wavered since that first morning Americans woke up to Donald Trump as their president.

Though the talks may yet dissolve in acrimony, Canada's team comes to the negotiating table with one inarguable advantage; sound strategic principles have guided their every move to get us here. This is an achievement all the more remarkable with a government that was barely

into its first mandate when Trump the presidential candidate first warned of his ambitions for NAFTA. What follows is a brief enumeration of the ways in which the best conditions for a favourable outcome have been established.

### 1. The Best Defence is Offence

It seems so very long ago now that an Ottawa micro-controversy erupted over the Trudeau government's first salvo in the NAFTA renegotiations. In the days that followed the Trump victory, Trudeau did not wait to find out if the new president was true to his words that NAFTA had to be “torn up” because it was a “bad deal” for American workers. There was every indication that the tone and indeed the course of any dialogue on trade between our two countries would be oppositional, if not hostile. As in dealing with any opponent in the political arena, he who sets the frame, determining the rules of engagement, has the advantage.

And so it was that Trudeau signaled, through Canada's ambassador to

the U.S., David MacNaughton, that we were “prepared to talk ... that the agreement as it stands has benefited all three countries but ... anything can be improved and so we're open to having discussions.”

The criticism from the Canadian opposition and indeed from former Republican presidential candidate Rick Santorum at the time was that Canada was ill advised to wake the bear, that we would soon be at a disadvantage as our powerful neighbour trained its eye on where it could exert influence to Canada's economic disadvantage. And yet, by setting the frame, Canada was able to affirm that we were trade partners rather than adversaries. With a maverick administration whose key advisers were new to statecraft, Trudeau's team correctly read that Trump would be looking for allies on the international stage, given how ambitious his team was—and remains—in redefining America's place in the world.

### 2. Relationships are Everything

Recently, just prior to the firing of Trump's key adviser Steve Bannon, much was made in the Canadian media of a *New Yorker* piece by Ryan Lizza, in which Trudeau's principal secretary, Gerry Butts, was depicted as being good friends with alt-right Trump advisor Steve Bannon. Bannon, now back at Breitbart News, is as close to an arch-villain, eminece grise character for American progressives as it would be possible to cast. Lizza wrote that Butts and Bannon often talked strategy and Butts had even offered up some advice on tax policy that would appeal to the middle class. The implication for Canadian progressives

was that a new light was cast on Butts, and by association, Trudeau. Behind the curtain that blocked out the sunny ways, a cold, cynical, calculating game was being played.

Less cynical and calculating than simply necessary. Any relationship, no matter how transactional, requires a working rapport. And it follows that if there is no relationship more important to the Canadian economy than ours with the U.S., the importance of the rapport between key advisers is only that much greater. As for the purportedly congenial relationship between Katie Telford, Trudeau's chief of staff, and Ivanka Trump and Jared Kushner, the ability to find common ground with those closest to Trump himself may yet turn out to be the best insurance policy we'll have against impulsive decisions by the president.

### 3. This 'Special Relationship' Requires Special Teams

As one senior Liberal told me following the Trump victory in 2016, the challenge Trudeau's team faced at the time was that, even prior to his victory in the Liberal leadership race, they had developed strong ties to the Democrats and had drawn inspiration, if not a significant part of the 2015 campaign's field operations playbook, from the best practices honed by two Obama victories. And if there had been any significant outreach at all to Republicans during this period, it would have had marginal influence at best, given the Trump team's fractious relationship with the old guard of the GOP. The first priority for Canada-U.S. relations was to figure out who among the Liberal caucus, the senior ranks of the public service and yes, among the Conservative opposition could exert real influence in the months to come.

Much has already been said and written about Foreign Affairs Minister Chrystia Freeland's rapid ascent to a pre-eminent role within Cabinet, given her wide range of key contacts both on Wall Street and in



Prime Minister Trudeau and Foreign Affairs Minister Freeland speak with President Trump during the G7 in Taormina. May 27, 2017. Adam Scotti photo

Washington, but Freeland required a special unit working closely with her to lay the necessary groundwork going into the first round of negotiations. This is the Canada-U.S. Relations Unit working within the PMO. The core of this team, led by Brian Clow, her former chief of staff when she was at International Trade, includes a few of her most effective and dependable staffers from that time. The unit operates within a kind of war room setting, managing stakeholder engagement and rapid response issues management a short stroll down the hall from where Butts, Telford and team run the PMO.

Yet just as vital to their effectiveness is their link to the Canadian Embassy's operations in Washington, with David MacNaughton playing an active role in ensuring no Canadian industry or sector doesn't have a game plan with a clear-eyed understanding of what's on the table—and what's at risk. For this is key to the offence strategy: focus on the regions and industries where the U.S. has more to lose than gain in terms of jobs and economic development and ensure that the

offices of U.S. Trade Representative Robert Lighthizer and Commerce Secretary Wilbur Ross are duly apprised.

This overarching objective has dictated related "special teams" activity within the special Cabinet Committee on Canada-US relations as well, led by Transport Minister Marc Garneau. Garneau and Andrew Leslie, in his role as parliamentary secretary to Freeland, have taken the lead, working their strong contacts within the Pentagon and the Washington mandarin—links forged during their years in senior roles with the Canadian Space Agency and the Armed Forces, respectively. Yet all key Cabinet Ministers, including Innovation Minister Navdeep Bains and Finance Minister Bill Morneau, have been playing every angle in the key states that have the most to lose if Canadian exports are suddenly priced out of the market.

All of this work is supported and coordinated by the ultimate special team, the NAFTA negotiators led by Steve Verheul, working out of Global Affairs. Verheul and his colleague Martin Moen kept their composure and held the line during the most pre-

carious developments in the Canada-European Union (EU) Comprehensive Economic and Trade Agreement (CETA) talks. It's that poker-faced demeanour and eye for the details that could prove pivotal as the talks progress.

#### 4. Focus on Where the Votes Can't Afford to be Lost

It may yet turn out to be one of the happiest accidents of contemporary Canadian history that one could overlay a map of the states that decided Trump's victory on top of those where Canada is each state's biggest trading partner to reveal a virtual match. The regions most vulnerable to retaliatory measures from Canada have the votes Trump and the Republicans need to maintain their grip on power. When "Buy American" and "America First" trade policy can lead to significant losses of American jobs at the bargaining table, those newly unemployed are less likely to cast

**“ Ultimately, what will dictate the course of these negotiations, no matter how long they go on, will be how clearly the risks and rewards in political capital are wagered on both sides of the table. The chips do not fall where they may—they fall in key constituencies across the U.S. ”**

their ballots—or even show up—for the next election.

It is assured that a team of advisers that campaigned for Trudeau—and that remains working for him—will keep the political lens on all strategic considerations, first and foremost. Ultimately, what will dictate

the course of these negotiations, no matter how long they go on, will be how clearly the risks and rewards in political capital are wagered on both sides of the table. The chips do not fall where they may—they fall in key constituencies across the U.S.

Still, despite the sound strategic thinking at work for Canada, the Rumsfeldian known unknowns remain. Mexico's role in these negotiations, much like the chaos within the West Wing, could add plot points that will either forestall or foster unexpected resolutions in the makings of a renewed and modernized agreement. Yet the Trudeau government has rightly understood these negotiations as a crucible, and quite possibly the determining factor for a mandate beyond the next election cycle. **P**

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Prime Minister Trudeau and President Trump walk along the colonnade at the White House in Washington. February 13. *Adam Scotti photo*

## Negotiating With an Elephant: NAFTA's Not for Sissies

Jeremy Kinsman

*While it may seem as though the NAFTA renegotiations are about arcane clauses and sub-sections at their most abstract and the fate of industries and jobs at their least, they are also about personalities. Trade negotiations, like any trans-border diplomatic interactions, involve the personal strengths and weaknesses of their interlocutors. As veteran senior diplomat Jeremy Kinsman writes, there's a texture to these things.*

Canadians and Americans negotiate effectively every day. We enjoy an ease of dealing with each other in the private sector as smooth as any relations in the world. Trans-border acquisitions are agreed on complicated bargains for pipelines, banks, property, waste collectors, diamond mines and food suppliers.

Traders settle easily on terms for everything that is sold across the border. Deals proceed on the need to agree first on the facts. The governing principle is win/win. Behaviourally,

the sociology is that of cousins: the easy after-work cocktail banter is in a shared language about a common sports and entertainment universe.

While some historians still make the case we're basically the same people, polling shows that Canadians increasingly see U.S. society, and certainly American politics, trending differently than Canadian in ways that could become almost existential if trajectories hold. But deal-makers keep fractious political debate out of day-to-day business transactions.

It was the sense of common bonds at the people-to-people level that lifted the idea of a free trade agreement among the North American countries beyond the economic sphere. It aimed at a higher and wider spatial ideal, a sense of North American community, as set out by Ronald Reagan in his speech when he announced his candidacy for the presidency. It was about neighbourhood.

"A developing closeness among Canada, Mexico and the United States—a North American accord—would permit achievement of that potential in each country beyond that which I believe any of them—strong as they are—could accomplish in the absence of such cooperation," Reagan said. "In fact, the key to our own future security may lie in both Mexico and Canada becoming much stronger countries than they are today."

But Reagan has a nationalistic successor who campaigned on a vow to "tear up NAFTA," who in a myriad of ways has insulted Mexicans. Donald Trump has also jarred a lot of Canadians with his claims American workers were being victimized by an unfair trade deal. He has top advisers who are extreme nativists and sovereigntists, for whom international relations are an exercise in seeking national advantage whenever possible; "America first, always America first," as Trump intoned in his inaugural address.

Yet, despite Trump's recent descrip-

tion to the *Wall Street Journal* of NAFTA as "a horrible deal...one of the truly bad deals," the recently-released U.S. statement of objectives for NAFTA re-negotiation with Canada is not unreasonable. NAFTA does need updating, adjustment and extension into new areas of commerce that were not foreseen in the pre-digital age.

**T**he three countries have appointed experienced, professional, no-drama lead negotiators, in the hope that Trump meant it when he told the *Wall Street Journal* that NAFTA "may be salvageable." But, still, it may be too much to hope that negotiations proceed the way they do in the private sector, in a friendly, fact-based and objective way.

The first reason is that negotiating for your country is different and possibly most different for Americans. Maybe there's something about being a superpower that makes exceptionalist Americans (and Russians, by the way) curiously unable to easily digest that things might be done differently and even effectively in other countries. For example, Canadians have a national goods and services tax (GST); our timber resources are mainly on "Crown" lands; our cultural industries lack the scale to compete with all-out continental market forces. For Americans, differently aligned policies infer an unfair advantage, even if they come to understand why we choose different ways.

As the senior Canadian cultural official, I went to Los Angeles in the 1980s to explain to the president of Disney, Frank Wells, why we needed to separate the Canadian market for film distribution rights from the standing practice of indivisible North American rights that by definition excluded Canadian distributors from earning the revenue that could nourish a Canadian film industry.

Wells received us for a working lunch in the cafeteria (always a sign of a put-down). But then Wells stayed for three hours, concluding with seem-

ing empathy that he "got our reasoning." He'd think the same way if he were us. Yet, that evening he sent a message to the White House that these Canadians were dangerous to their industry's global interests and had to be stopped. The issue of Canadian corrective film distribution legislation almost derailed the FTA talks several times. But in the end, Prime Minister Mulroney obtained an exemption for Canada's cultural industries, after persuading Reagan he couldn't sell the deal to voters without one. This deal-making exemption was granted by a former president of the Screen Actors Guild.

**“The U.S. system is certainly unique. The division of powers means that American negotiators aren't free agents. They need to answer to Congress as well as to the president.”**

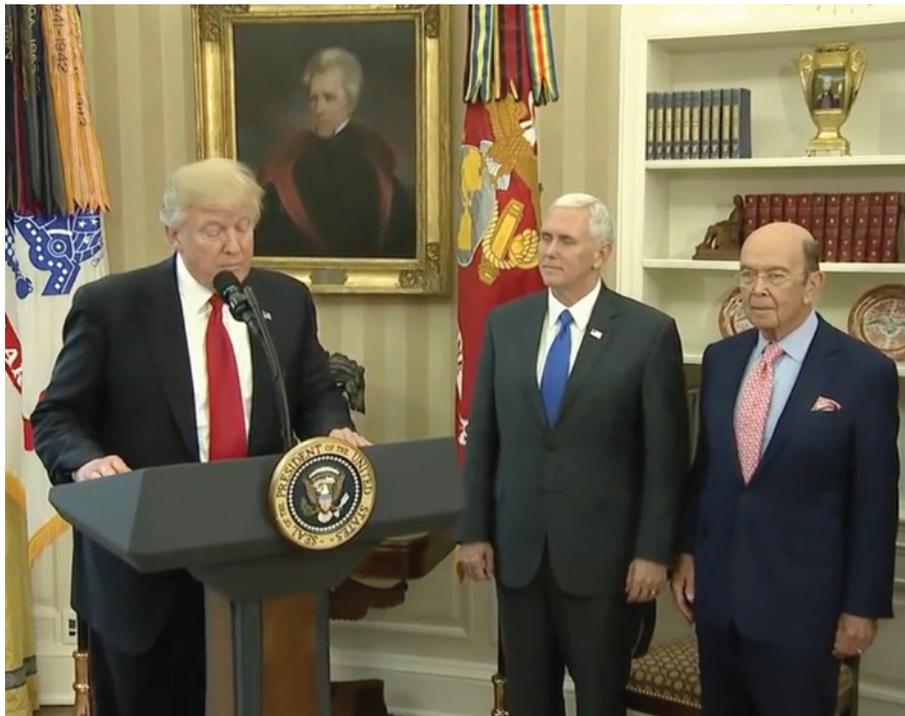
**T**he U.S. system is certainly unique. The division of powers means that American negotiators aren't free agents. They need to answer to Congress as well as to the president. "We can't bind the Congress," Reagan's Treasury Secretary James A. Baker said in the final days of negotiating the original Canada-U.S. Free Trade Agreement, a caveat that is repeated as doctrine in every negotiating room for every working group all the time. It can mean that any agreement is ad referendum ad infinitum. "We'll have to run it past our lawyers" is one of the most frequently heard and ominous retorts from the U.S. side in negotiations. Even the U.S. Constitution gets invoked when the going gets tough.

"It ain't over 'till it's over," Yogi Berra said. And ex-ambassador to the U.S. Allan Gotlieb added from

his experience in Washington, “It’s never over.” In 1984, Canada won a court judgment that our method of pricing timber on Crown lands (“stumpage”) was not a trade advantage. That summer, at the Democratic convention, a congressman friend from a timber district warned me not to celebrate; they wouldn’t accept the verdict. There have been several such judgments in the years since, from neutral panels set up to adjudicate conflicts under NAFTA, all confirming the initial verdict in Canada’s favour. The U.S. authorities still don’t accept it and indeed, now want the provision for neutral bi-national dispute settlement panels under article 19 of NAFTA scrapped altogether. However, no Canadian government is going to agree to leave conclusions in the hands of U.S. courts which seldom rule in favour of foreigners. Justin Trudeau has already made it clear that this is a deal-breaker for Canada.

**“ No Canadian government is going to agree to leave conclusions in the hands of U.S. courts which seldom rule in favour of foreigners. Justin Trudeau has already made it clear that this is a deal-breaker for Canada. ”**

Negotiating with the U.S. means, as Gotlieb also said, coping with “a country of a thousand players who can deliver a thousand wounds.” It’s easy to understand how the U.S. film industry could influence Ronald Reagan. But how come the owner of the critical and over-burdened Ambassador Bridge between Windsor and Detroit could get the U.S. government under Obama to fight the construction of a new parallel bridge to relieve costly border congestion?



President Trump announces executive orders on trade on March 31, with Vice President Mike Pence and Commerce Secretary Wilbur Ross. *White House photo*

Canada will end up paying the entire \$4.8 construction cost of the new Gordie Howe International Bridge, and will even pay \$250 million for the customs plaza on the U.S. (The costs will be recouped from toll revenues and Canada and Michigan will be co-owners of the bridge.)

American presidents have to pick when they will make concessions that might affect domestic players and jurisdictions, even U.S. agencies. Getting Bill Clinton to sign on to a land mine agreement the U.S. Army deplored when he was already at daggers drawn over his ““Don’t ask, don’t tell” policy authorizing gays to serve, if not openly, in the military was expecting too much.

Strategically, we should avoid pitching ourselves as solid co-citizens of sort-of-the- same-place. The U.S. is a very divided society. I learned that the fact my mother was born in Los Angeles and I went to an American university may stir a bit of empathy in Los Angeles and New York but not with anybody who went to Texas Christian or Alabama; on

the contrary. Moreover, if we try to come across as being just like them, how come we get to claim we can do things differently?

**W**e should never appear too eager for an accord. While we may want to refrain from mirroring the Trump tactic of threatening to tear up the deal, Canadians need patience and disciplined restraint combined with perfect timing on when to say across the table to Americans “No way.” As Donald S. Macdonald put it, “You have to kick them in the shins from time to time if you want to get anywhere.” In 1987, we wrested a five-minutes-to-midnight Free Trade Agreement from the White House only after PMO Chief of Staff Derek Burney and Chief Negotiator Simon Reisman said “We’re done. It’s over.” It was over the U.S. resistance to bi-national dispute settlement panels. On the phone with U.S. Treasury Secretary Baker on October 3, 1987, the night Reagan’s fast track authority to negotiate a deal without Congressional amendments would expire at

midnight, Prime Minister Mulroney told Baker he would be calling the president at Camp David, asking just one question: “How come the United States can make a nuclear arms deal with its worst enemy, the Soviet Union, but can’t sign a free trade agreement with your best friends, the Canadians?” Within half an hour, Baker and the U.S. agreed to the dispute settlement mechanism.

Of course, we had in James Baker a reasonable, fair-minded, and very intelligent professional, working for a president who wanted an accord, who saw benefits in the whole North American picture, and who adored Brian Mulroney.

“Justin is doing a spectacular job in Canada. Everybody loves him and they love him for a reason,” pronounced Donald Trump recently at the G20 summit in Germany. And in a transcript leaked in August of a phone call with Mexican President Enrique Peña Nieto a week after he took office in January, Trump said Canada was “not the problem,” that the Canada-U.S. trade relationship was “balanced and fair,” and that “we do not have to worry about Canada, we do not even think of them.”

**“Most Canadians deplore Trump’s behaviour and politics, but Prime Minister Trudeau is right to stay out of U.S. domestic affairs altogether, and to avoid taking easy shots at the president in international fora.”**

For negotiators, that’s great to know, provided the president in question doesn’t change his affections as often as the current one changes his bluffs and indeed his mind. Most Canadians deplore Trump’s behaviour and

**“We need to connect to Americans able to see the benefits in a win/win NAFTA deal, from tens of millions of workers, to state governors and legislators, to media and to civil society, to all who have positive feelings for Canada at a time of unprecedented favourable profile in the U.S. for our attractive young prime minister.”**

politics, but Prime Minister Trudeau is right to stay out of U.S. domestic affairs altogether, and to avoid taking easy shots at the president in international fora.

We’ll inevitably have to disagree with the U.S. on some international and even bilateral issues: how we communicate that is important, including what we say for political purposes back here. We sure shouldn’t go down there to woo partisan allies against the president, as Stephen Harper did in telling a New York audience that Obama’s choice on Keystone XL was a “no-brainer,” or in thinking it was smart for Canadian Conservative cabinet ministers to traipse to Washington for GOP prayer breakfasts.

That being said, we need to connect to Americans able to see the benefits in a win/win NAFTA deal, from tens of millions of workers, to state governors and legislators, to media and to civil society, to all who have positive feelings for Canada at a time of unprecedented favourable profile in the U.S. for our attractive young prime minister. We shouldn’t vaunt those connections but at the end of the day, they are very pertinent assets in a negotiator’s toolkit.

Of course, in hoping for even-handedness, objectivity about the facts, and a balanced outcome, we know it has to be one that enables the president to declare victory. But we need him also to celebrate it as a win for North America as a whole, one that we and the Mexicans will endorse for our own economies. It would be even better if we could describe our

accord as something exemplary for others in the world. North Americans should re-ignite faith in such transnational agreements at a competitive and even dangerous time when protectionism and populism have made a cyclical resurgence.

It would be an adequate start just to convert this phase of taunting and daunting populist U.S. push-back against North American neighbours into an agreement that works for all North Americans and keeps us all competitive. But it won’t be easy and it’s not for sissies. **P**

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The West Front of the United States Capitol, with the U.S. Senate and House of Representatives. As Sarah Goldfeder writes: “Although the president has the authority under NAFTA to remove the United States from the agreement, the implementation legislation for the agreement remains in place until Congress legislates something different.” *Wikimedia photo*

# Getting to Yes: Why Fast Track Matters

Sarah Goldfeder

*Multilateral trade negotiations are like a game of Jenga whereby the usual caution of “Nothing is decided until everything’s decided” is compounded by what can happen to a deal after it’s actually agreed, with the Trans-Pacific Partnership being the most vivid example. Which is why Trade Promotion Authority, or “fast track”, as expedited congressional approval is known, is so crucial.*

As the NAFTA negotiations began in Washington DC in mid-August, members of Congress and Senators were back in their home districts, listening to constituents. Many heard messages of concern for the economic uncertainty that has accompanied the renegotiation of an agreement that facilitates significant portions of the American economy. While Congress may not be the lead on the process of negotiating trade deals, it has a significant role to play in the ultimate approval of any agreement. Without Congress on board, there is no deal. Without the support of their constituents, members

of Congress won't play. This is particularly true on the eve of a mid-term election, which can be a game-changer for any administration.

From the U.S. perspective, the talks are being conducted under the Trade Promotion Authority enacted by Congress in 2015. In 2014, President Obama was in the heat of negotiations for the Trans-Pacific Partnership (TPP) and looking forward to the eventual negotiation of the Transatlantic Trade and Investment Partnership (T-TIP) with the European Union. That January, in his State of the Union address, he called for Congress to grant him bipartisan trade promotion authority (also known as TPA or fast track). He said, "We need to work together on tools like bipartisan trade promotion authority to protect our workers, protect our environment, and open new markets to new goods stamped 'Made in the USA.' China and Europe aren't standing on the sidelines. Neither should we."

He was asking for this authority to give his negotiators credibility at the table in the ongoing talks on TPP, where they were feeling pressure. Even here in Canada, Stephen Harper expended little political capital on the agreement until TPA passed Congress. Ironically, despite President Trump's almost immediate rejection of TPP, it is this TPA that the Trump administration is relying on to get through the renegotiation of the North American Free Trade Agreement (NAFTA). For this reason, it is worth recalling the fight for the TPA of 2015.

During the first three weeks of June 2015, an epic partisan battle on free trade was waged on Capitol Hill. The Democrats were opposed to granting the President, a Democrat, authority to negotiate three specific multilateral trade agreements under fast track provisions (the TPP, the T-TIP, and the Trade in Services Agreement or TISA). Fast track authority is a renewable mechanism by which trade deals can be approved or denied by Congress on an up-or-down vote, cannot be amended or filibustered.

By 2015, the most vocal supporters of

**“ We need to work together on tools like bipartisan trade promotion authority to protect our workers, protect our environment, and open new markets to new goods stamped 'Made in the USA.' China and Europe aren't standing on the sidelines. Neither should we. ”**

the enabling legislation, sponsored by Republicans Orrin Hatch in the Senate and Paul Ryan in the House, were Senate Majority Leader Mitch McConnell and House Speaker John Boehner. In 11th-hour negotiations, in which the Obama White House partnered with the leadership of the Republican Party, the Bipartisan Comprehensive Trade Promotion Authority of 2015 passed both houses along largely partisan lines.

**W**hy does this matter? The U.S. executive branch must have the ability to negotiate a trade agreement without the threat of effective re-negotiation within its legislative branch before the agreement can come into force. It is absolutely necessary that they have this authority in order for the U.S. negotiating team to have any credibility with international counterparts who are well aware of the potential for congressional gridlock without fast track.

The principles laid out in the TPA of 2015 were based on decades of legislation allowing for credible trade negotiation by the USTR. In addition, in 2007, the May 10 Bipartisan Compact on Free Trade Agreements itemizing certain priorities was struck between Congressional Democrats and the Bush administration, leading into a series of bilateral trade agreements. The principles for labour and environment outlined in that memo remained in the 2015 legislation and are reflected in the July 17 document on priorities for the NAFTA negotiations. In fact, most of the language in the July 17th document originated in texts designed to facilitate the negotiation of other agreements—trade priorities that have been agreed upon by Congress over time.

Without TPA 2015, any agreement negotiated by the USTR team would be subject to full legislative oversight. In the world we live in now, that would mean a line-by-line assessment of the final text and likely include substantial amendments that would speak to the constituencies of members of Congress. In other words, it would be a mess.

What does TPA mean for the NAFTA negotiations? In a nutshell: Congress may not be driving the bus, but it owns the bus and can take the keys back at any point in time.

TPA 2015 mandates a specific process for the negotiation, approval and implementation of trade agreements in the United States. It requires that Congress be involved from the beginning, consulted throughout, and notified of any changes in trade remedy laws in advance of the implementation legislation. It also requires that Congress receive specific reports that detail the overall impact of the proposed agreement on the economic interests of the United States as well as impact reviews for the environment, employment, labour and an implementation and enforcement plan.

Further complicating matters, the TPA contains provisions for Congress to retract Trade Promotion Authority through a procedure called the Extension Disapproval Resolution. This provision may be in play in these NAFTA negotiations should the negotiations not be concluded by July 1, 2018. Another option, the Procedural Disapproval Resolution, allows Congress to retract TPA for any specific trade agreement. Additionally, there is yet a further procedure should Congress find that necessary changes in trade remedy

laws are inconsistent with the negotiating objectives, in which case, Congress can choose not to accept those and kill the deal. The fourth procedure that could come into play is a “Consultation and Compliance Resolution” that can be used to deny TPA for any specific piece of implementation legislation. Finally, as if there weren’t enough checks to TPA, each house can always override TPA and consider an implementation bill under its general rules.

It is also important to note that although the president has the authority under NAFTA to remove the United States from the agreement, the implementation legislation for that agreement remains in place until Congress legislates something different. Likewise, the implementation legislation for NAFTA subsumed and in part, nullified, the prior agreement between Canada and the United States. Without legislative action, which requires Congress, nothing effectively changes.

Which brings us to today. President Trump has consistently used strong rhetoric against NAFTA (and against all existing trade deals) as a rallying cry. That rhetoric may make the negotiations more stressful for the teams of negotiators, but it has little effect on the mechanisms of the United States government. The mechanisms that address the system of checks and balances that both frustrate and protect Americans are particularly resilient. Trade negotiations are one of those, and the process is designed to be, to the extent possible, nonpartisan, with the overarching goal of protecting and advancing the national interest of the United States.

And then, there’s politics. There are a few ways for a president to alienate members of Congress. One guaranteed to work is to act in ways that express a conviction that Congress works “for” the president. Members of Congress are the first line of the American democracy. They take the concerns of their neighbours back to Washington. They may express sup-

port for a president because their constituency supports that President, but that goodwill only goes so far. As this president humiliates, goads, and harasses Republican leadership via his Twitter feed, he runs the risk of losing them on legislative priorities like trade. Especially when trade agreements are responsible for the sales of commodities that put food on the tables of American families. Congress is also beholden to corporate interests—especially corporations that employ voters in their districts, but also those that contribute to fundraising efforts in advance of an election year. While the discussion of trade deals that make life better for American workers is good rhetoric, the reality is that trade deals that facilitate business are what the corporate world and its K-street lobbyists are fighting for.

“*The reality is that the path not taken—a world without NAFTA—would likely include a less wealthy and secure North America. NAFTA brought Mexico into the already stable relationship between Canada and the United States. It helped to sustain a continent of prosperity and resilient democracy.*”

This is not to say that the one set of goals is wholly inconsistent with the other. But it is important to remember that trade is not a function of government, it is a function of business. Trade deals are not effective at forcing the will of a political ideology; that is a function of domestic reforms. Trade deals are most effective at establishing markets and relationships between nations. Those networks are the best way of ensuring a relatively stable global economy where participants play by a certain

set of predictable rules.

The Republican party of the 21st century has found new strength in the “fly-over” states—states whose economies are driven by agriculture and manufacturing. The constituencies in these states may have conflicting views on specific trade agreements (farmers liked TPP for example, but skilled workers did not), but access to foreign markets is important to all. As this process unfolds, members of congress from agriculture-based states will be looking to preserve the agreement.

The bigger challenge in the United States is determining exactly how much Americans care about NAFTA. The coverage of these negotiations in the U.S. is infinitesimal compared to the daily digest available in Canada. The constituencies that have more at stake are paying more attention, the economies of Texas and New Mexico, for example, are largely driven by trade with Mexico, and have more front-page coverage of NAFTA in their local papers.

How all this plays in the American realpolitik is what will be, in the end, the most telling. The reality is that the path not taken—a world without NAFTA—would likely include a less wealthy and secure North America. NAFTA brought Mexico into the already stable relationship between Canada and the United States. It helped to sustain a continent of prosperity and resilient democracy. There is still work to be done. The American workforce is struggling to pay its bills, while Mexican civil society is (arguably) still nascent. Both countries look to Canada as an example on many fronts, but mostly as a country that has threaded the needle and found success by sustaining a healthy, vibrant economy based on trade, and supported by a nation grounded by its middle-class. **P**

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While Canada must be prepared to walk away from NAFTA talks if the U.S. insists on abandoning the Dispute Settlement Mechanism of Chapter 19, Paul Moen writes that other trade remedies might emerge from a creative approach to the talks. *Shutterstock photo*

## Trade Remedies Under NAFTA: STILL TIME FOR CANADA TO PIVOT TO OFFENCE

Paul Moen

*While Canada has characterized the Chapter 19 dispute settlement provision of NAFTA as a bottom-line condition in the ongoing renegotiations, the United States has identified its elimination as equally imperative. While use of the mechanism has waned in recent years and some younger trade deals eschew trade remedies altogether, negotiator and trade expert Paul Moen suggests three possible ways to a compromise.*

Canada must be prepared to walk away from talks if the United States insists on abandoning the dispute settlement mechanism for trade remedies in any new NAFTA. Its real and symbolic importance in underpinning the rule of law in NAFTA cannot be overstated. Just as certain U.S. claims about the unconstitutionality of the process were debunked during the original Free Trade Agreement (FTA) negotiations, similar arguments must be marshalled today. And as outlined below, Canada and

Mexico should also seize this opportunity to present several bold proposals on reforming trade remedies in the NAFTA zone.

On July 17, the United States Trade Representative (USTR) released its document outlining the U.S. priorities for renegotiating the NAFTA. In a section titled, “Trade Remedies,” the USTR explicitly identifies elimination of the current dispute settlement mechanism. That goal is reinforced with the addition of the language that the U.S. will look to “preserve the ability of the United States to rigorously enforce its trade laws, including the anti-dumping, countervailing duty, and safeguard laws.” Conversely, Canada and Mexico vigorously defend the dispute settlement mechanism and view it as essential to any new deal. With that, the battle lines on trade have been clearly drawn. But a closer examination of trade remedies in NAFTA might help parties bridge this big gap.

Trade remedies such as anti-dumping and countervailing measures are designed to protect domestic producers from imports that are priced below market or even below the cost of production. If unfair dumping or subsidies cause or threaten harm to competing businesses, governments may impose duties to offset the injury, which are then subject to rules-based dispute settlement under NAFTA and/or the World Trade Organization (WTO). Dispute settlement acts as a check and balance on the inherent protectionist bias of trade remedies. But the historical commitment of the United States to both NAFTA and WTO dispute settlement for anti-dumping and countervailing duty is now in doubt.

When Canada and the United States first launched free trade negotiations in 1986, Canada sought to exempt its exports from increasingly capricious U.S. trade remedies—especially in areas of pork, beer, steel and, of course, softwood lumber. When this proved unacceptable to the United States and prompted Canada to walk away from a deal at the eleventh hour, creative negotiators achieved an agreement on process. The result was a binding bi-na-

“With the NAFTA zone even more integrated than it was during the original FTA negotiations, the policy rationale to seek a mutual exemption from trade remedies is even stronger and appeals to the self-interest of the United States not to impose undue harm on its own producers and consumers. Let us build from here.”

tional panel dispute settlement mechanism under Chapter 19, replacing domestic judicial review of government trade remedy action. The solution was rightly heralded by Prime Minister Brian Mulroney and other trade negotiators as a major step forward for the rule of law in Canada-U.S. trade.

The Chapter 19 process was made permanent in NAFTA, and has generally worked well for Canada in providing incentives for negotiated settlements in sensitive areas such as softwood lumber. But a confluence of factors—including a populist backlash against trade, a series of adverse panel decisions and claims of unconstitutionality under U.S. law—are all underpinning the Trump administration’s hard push to eliminate Chapter 19 in the current renegotiation.

In contrast, Mexico has stated its defence of Chapter 19. And Canada’s foreign affairs minister, Chrystia Freeland, formally set out her government’s six core negotiating objectives for NAFTA to make the trade agreement modern, progressive and appropriate to the concerns of the 21st century. Included in this list of objectives deemed to be in Canada’s national interest alongside culture and supply management is “a process to ensure anti-dumping and countervailing duties are only applied fairly when truly warranted.” It was a carefully worded objective.

Most commentary on the Canadian position has focused on how Chapter 19 is a “line in the sand” for which the Trudeau government would be prepared to walk away from talks. Some commentators have argued that Chapter 19 has run its course. For example,

Robert Wolfe, professor emeritus at Queen’s University School of Public Policy, argues that Canada has only litigated three cases in the past decade under Chapter 19 and that highly-integrated continental supply chains discourage litigants taking such action.

But one reason that the United States has not used Chapter 19 much likely has more to do with a lack of U.S. exporter competitiveness into the Canadian market vis-à-vis Chinese and other exporters. And with the NAFTA zone even more integrated than it was during the original FTA negotiations, the policy rationale to seek a mutual exemption from trade remedies is even stronger and appeals to the self-interest of the United States not to impose undue harm on its own producers and consumers. Let us build from here.

First, Canada and Mexico could resurrect Canada’s original position in the FTA negotiations by seeking a trilateral mutual exemption from the application of each other’s anti-dumping and countervailing duty actions. Trade remedies are blunt instruments in a continent characterized by seamless and sophisticated global supply chains. Indeed, safeguard action—a trade remedy measures taken to address certain import surges—is already exempted on a *prima facie* basis under NAFTA, which could be extended to anti-dumping and countervailing duty measures.

Looking around the world, Australia and New Zealand eliminated trade remedies action between their two countries as far back as 1993 under the Australia-New Zealand Closer Economic Relations Trade Agreement (ANZERTA). ANZERTA not only elimi-

nates trade remedies but also empowers competition tribunals with jurisdiction over events in the other country where the competition issue covers both countries. Interestingly, the Canada-Chile Free Trade Agreement, as amended in 2017, does away with trade remedies.

**“ Given that the United States, Canada and Mexico all need to address third-country illegal dumping and subsidization, there may be a political incentive for the U.S. to agree on a common approach to manage trade remedies on products imported into the NAFTA zone. ”**

Second, given that the United States, Canada and Mexico all need to address third-country illegal dumping and subsidization, there may be a political incentive for the U.S. to agree on a common approach to manage trade remedies on products imported into the NAFTA zone. In its stated NAFTA renegotiation objectives, the USTR calls for promoting “cooperation among the trade remedies administrators of the NAFTA countries” and an “early warning import monitoring system for agreed sensitive products from non-NAFTA countries.”

Given the high-profile trade remedy cases of imports from Asia, including Korea and China, these objectives could provide an added policy and political incentive for the United States, Canada and Mexico to negotiate a common regime to deal with dumping by non-NAFTA countries. Some business groups in Canada have highlighted this issue in their NAFTA submissions, and the initiative could find support among steel producers and unions on both sides of the border.

Third, as an interim step to move to-

wards this goal, Canada and Mexico could propose a measure to temper the protectionist impact of trade remedies. One solution is a technical “lesser duty” rule in the application of domestic trade remedy law, which could consider the downstream impact of anti-dumping and countervailing duty action on workers and consumers on both sides of the border. The European Union has a “community interest” provision that looks at the downstream impact of imposing anti-dumping and countervailing duties. It is time for three countries that share the world’s largest trading relationship to follow suit and consider the adoption of a similar public interest provision in NAFTA. Here is how it could work.

In the application of anti-dumping and countervailing duty law, there tends to be a mismatch between the offence and the corresponding penalty. In almost all cases, the duty levels exceed the extent of the harm. This gives domestic producers a windfall of protection, imposes higher costs on users and consumers, and results in a net loss to the economy.

**“ in several rounds of the Canada-U.S. softwood lumber dispute, the U.S. consistently imposed anti-dumping and countervailing duties that overprotect U.S. lumber producers and unnecessarily raise the cost of residential construction and the price of homes for U.S. consumers. ”**

For example, in several rounds of the Canada-U.S. softwood lumber dispute, the U.S. consistently imposed anti-dumping and countervailing duties that overprotect U.S. lumber producers and unnecessarily raise the cost of residential construction and the price of homes for U.S. consum-

ers. U.S. producer interests politically outweigh those of the construction industry and of consumers at large, despite Canada’s challenging U.S. duties and winning repeatedly under NAFTA and WTO panels.

Applying the “lesser duty” rule would reduce duties to the level actually required to offset injury and would help move stakeholders toward the position of understanding that trade remedies are protective measures that impose more costs than benefits on the economy maintaining punitive duties. In the case of softwood lumber, the Trump administration might even be receptive to a lesser duty principle, given the branding of the president as a champion of the little guy for home buyers and construction workers, rather than sacrificing their interests to U.S. lumber producers.

For its part, the Trudeau government recently dramatically reduced the anti-dumping duty on drywall imports from the United States. Balanced against Canada’s domestic (albeit foreign-owned) producers of drywall were the downstream users of drywall—namely contractors and others in the construction industry—many of whom were locked into long-term supply agreements. In the end, the government reduced the level of duty to an amount that would give succor to the downstream users, builders and potential home-owners, while still maintaining a level of duty which would compensate domestic producers for harm suffered.

Given the moving pieces in the current NAFTA talks, the highly-integrated nature of the NAFTA economy and our common cause in addressing illegal dumping and subsidies from other regions of the world, Canada, the United States and Mexico should use this opportunity to pivot to higher ground by proposing bold initiatives that might just work in a Trumpian ‘art of the deal’ world. **P**

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Mexican President Carlos Salinas, U.S. President George Bush and Prime Minister Brian Mulroney watch as trade ministers Jaime Serra Puche, Carla Hills, and Michael Wilson sign the NAFTA for their three countries in San Antonio, Texas in October 1992. *George Bush Presidential Library photo*

## What a Difference a Decade Makes: Free Trade at 30

Robin V. Sears

*Donald J. Trump's disruptive ascension to the presidency of the United States has injected a new protectionism into what had evolved over three decades into a continental consensus in North America on the benefits of free trade. As the NAFTA renegotiations evolve, the process could end up as a model for trade deals in the 21st century, or as a cautionary tale on the value of leaving well enough alone.*

Jacques Delors, the former French socialist finance minister who was the most effective head of the European Commission since the European Union's creation, and who almost single-handedly created the world's modern free trade agreement, spoke to the British Trades Union Congress in September 1988. In a powerful address about the benefits of the EU Single Market agreement to the British union leaders, he outlined the benefits of the 200-million strong free trade area to European progressives: tougher labour standards, health and environmental regulations, a level playing field across the whole of Europe for the smallest companies and countries.

Across the ocean a month later, a history-making campaign debate took place among the leaders of Canada's three federal political parties. Liberal John Turner scored heavy blows against Prime Minister Brian Mulroney, claiming that the October 1987 free trade agreement between Canada and the United States would "erase the border" separating us. "I believe you have sold us out," Turner told Mulroney in the defining moment of the debate. NDP Leader Ed Broadbent was similarly harsh in his critique of what was widely seen by progressive Canadians as a blow to our sovereignty.

Partly as a result of Delors powerful advocacy, European social democrats were convinced of the benefits to social justice of a broad agreement on trade and investment. Their Canadian cousins were on the other side. European conservatives were lukewarm about the single market, Canadian Conservatives were free trade evangelists. Today the roles have reversed again, with Canadian progressives fighting for changes to improve the Canada-U.S. FTA's successor negotiated in 1992, NAFTA, with Liberals leading the charge, and Conservatives taking shots from the sidelines. What a difference a decade can make.

Three things have changed since North American free trade turned 20. The first is that what was once considered radical is now the norm. Regional and bilateral trade agreements now circle the globe in an ever-tightening web of interconnected trade and investment policy networks.

The second is named Trump.

For the first time since Herbert Hoover, the United States is led by an overtly nationalistic, protectionist president. Among his first acts was to rip up the Trans-Pacific Partnership, an astonishingly damaging move to American self-interest. Instead of an agreement that placed the United States at the centre of almost every fast-growing economy on either side of the Pacific, Trump has handed an huge opportunity to China to re-organize those trading relationships in

**“ For the first time since Herbert Hoover, the United States is led by an overtly nationalistic, protectionist president. Among his first acts was to rip up the Trans-Pacific Partnership, an astonishingly damaging move to American self-interest. ”**

its self-interest. Chinese President Xi Jinping was openly celebratory about Trump's disastrous decision.

Now he is threatening NAFTA, having issued a list of demands impossible for either national partner—Canada and Mexico—to meet as outlined. The issue that stalled the original Canada-U.S. Free Trade Agreement, and remained a friction point in the NAFTA talks, was dispute settlement. Brian Mulroney pulled his negotiating team home over the Reagan Administration's unwillingness to give on the issue. That decision, a tactical echo from Mulroney's past as a labour lawyer, worked.

**E**stablishing an independent panel with its own rules, staffed by "foreigners" as well as your own nationals, is clearly worrying to economic nationalists. It's much less desirable than having disputes—in the case of the United States—settled by U.S. judges, in U.S. courts, according to U.S. jurisprudence...unless you are not an American. Then some more neutral forum is clearly essential. Trade agreements will always throw up winners and losers, cheaters and boundary testers. Their competitors will cry foul and seek legal redress.

But it is surely not serious to suggest that a Canadian plaintiff should expect a neutral—let alone an informed—judgment from an American circuit court judge, not experienced in international trade law or non-American jurisprudence. Nor could an American complainant expect any more from a Canadian-only tribunal. So, dispute settlement mechanisms that are expert, independent and effective are essential to modern trade

agreements. Perhaps Trump intends his opposition to NAFTA's Chapter 19 dispute settlement provision to be a bargaining chip but for Canada, maintaining that provision is as much a deal-breaker for Justin Trudeau today as it was for Mulroney 30 years ago.

But here he will run into the third major change since NAFTA's last big birthday: Canadians and Mexicans are now acknowledged world leaders in trade negotiation skills. U.S. Secretary of State Rex Tillerson returned from his first encounter with senior Mexican ministers and officials apparently shaken by how well the Mexicans had prepared their "Plan B" options in the event that the NAFTA talks failed. They outlined for him all the bilateral partner shifts they had begun to develop as alternatives to U.S.-Mexican trade. The Canadian NAFTA team, and its list of outside advisers, is equally impressive and deeply experienced.

**W**hile the current fast track authority, renewed in 2015 to expedite the now-defunct TPP, doesn't expire until 2021 if the president requests an extension before June 30, 2018, and current United States Trade Representative Robert Lighthizer has said there is no official deadline, most of the parties to the negotiations are considering June 30, 2018 the operative deadline.

Though Canada and Mexico have agreed to the agenda and timetable, conditionally, it is clear that completing talks by next spring is a pipe dream. From the American perspective, however, the last thing they want is a looming trade war as they head into the U.S. mid-term elections. If, as



“I believe you have sold us out.” The defining moment of the 1988 leaders’ debate on free trade in which John Turner accused Brian Mulroney of selling out Canada to the United States. As Robin Sears writes, it was the most consequential campaign of the modern era. *Montreal Gazette archives photo*

seems increasingly likely, the GOP loses control of the House, the entire discussion will be moot as the Democrats are highly unlikely to give approval to a Trump designed-trade deal.

Some of the changes included in any new deal will no doubt be impossible for some Republican politicians to swallow in an election year. Given the increasing unravelling of the Trump administration’s authority overall, it seems unlikely that they would want to expend much of their seriously depleted political capital attempting to force an unpopular deal through Congress.

How shifting are the winds of politics. In 1975, Ed Meese, one of the senior players in the Reagan campaign against Gerald Ford in the 1976 Republican nomination battle and later Reagan’s attorney general, came to Canada to test the political waters about his man. At a lunch with three Canadian political hacks, he raised the prospect of a free trade agreement. Each of the Liberal, Tory and NDP participants shuffled nervously at the question. After some polite Canadian hemming and hawing, one of the Canadians decided to be candid with the earnest American visitor. “That would never be politically pos-

sible in Canada, Mr. Meese,” I said, with youthful certitude.

Just over a decade later, the Macdonald Commission on the economy launched the FTA project, and today it is a foundation stone in the continental economy, whatever games Trump may think he can play. Even some of the most bitter opponents in labour and the cultural sector in Canada have grudgingly come to terms with the new structures now in place for a generation.

**“ The prospect of any deal was anathema to labour 30 years ago. Today it is pushing a set of negotiating demands it wants the Canadian side to seek. As long as the culture sector—and its connections into telecom and technology sectors—remains off-limits to American demands for change, few Canadians are likely to mount the barricades this time. ”**

Unifor—the successor to the Canadian United Auto Workers and then the Canadian Auto Workers—is this time being consulted regularly by the government’s negotiating team. The prospect of any deal was anathema to labour 30 years ago. Today it is pushing a set of negotiating demands it wants the Canadian side to seek. As long as the culture sector—and its connections into telecom and technology sectors—remains off-limits to American demands for change, few Canadians are likely to mount the barricades this time.

For what has taken place in the years since the first consideration of such a deal is that the multilateral process given birth as the General Agreement on Tariffs and Trade [GATT] and its successor, the World Trade Organization [WTO] has effectively died. The Doha round of talks has been paralyzed on agricultural and service industry battles since 2008, with no meaningful prospect of the North-South divide behind the deadlock being resolved, soon, if ever.

In its place has emerged an increasingly dense and interwoven set of regional and bilateral trade agreements. They have many common elements and each new generation typically builds on the experiences, successes

and failures of the earlier versions. Yes, there have been too many losers at the individual, sectoral and even national levels as a result. Many of them could have and should have been avoided. Adjustment and re-training programmes have been weak, underfunded and ineffective. That failure contributed signally to both Trump and Brexit.

But the Canada-Europe and TPP negotiators were informed by those failures and the backlash they provoked. They worked to improve labour codes, environmental standards, and intellectual property protections. They will need to go further to win wider political acceptance, especially in the largest richest nations. But the burden of economic adjustment needs to be better met by national and local governments, as well. Germany and Scandinavia are the leaders in ensuring that re-training and re-equipping assistance has kept their labour forces and SMEs not only afloat but prospering. The NAFTA partners would do well to emulate their approach.

**W**hat will the North American and global economies look like as we pass the

50th anniversary of the dramatic changes delivered by NAFTA and its cousins? If we have avoided the destruction of much of the globe either militarily by mishandling China's rise, or environmentally by drowning ourselves in rising oceans—big ifs, granted—we might see a dream, at least in part, come true.

The dream of the post-war founders of the global institutions that have provided stability and security for 75 years was that they were creating a seamless network of institutions to provide governance, direction and standards on security, trade, dispute settlement and legal and social standards. By the end of the Cold War, that dream seemed unrealistically ambitious. Even today with the assault on globalization, and the renaissance of the most primitive slogans of economic nationalism, we seem to be farther away from such a consensus than after the collapse of Communism.

But today's doomsters are more like the wrong-headed—me, among others—in 1975, than believable forecasters. The drive of technology and the global networks it facilitates, more cheaply at higher speeds, is not stoppable. Some nations may try to erect electronic fences against the

waves of data sweeping in and out of their economies, but they will fail. The fences will be penetrated by persistent effort or the successfully isolated nations will decline.

If North America, Asia and the EU were to be connected by such an interlocking set of trade and investment agreements, they would set the framework for economic relations across borders for the rest of the global economy. The next generation of trade negotiators can aim high on workers' rights, health and safety, environmental protections, as set out in the United Nations International Covenant on Economic, Social and Cultural Rights. After all, virtually every trading nation is already a signatory to the treaty, even if most—including Canada—cannot claim to have fully implemented its protections.

Even if patchy, such a network would represent an unprecedented advance toward a global foundation for social justice. Surely a dream worth striving for. **P**

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# Policy

## Canadian Politics and Public Policy



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The Ambassador Bridge between Windsor and Detroit, by far the busiest land crossing between Canada and the U.S., itself a symbol of the success of free trade. *iStock photo*

## NAFTA 2.0: *Carpe Diem*

Thomas d'Aquino

*The North American Free Trade Agreement was overdue for a proper update. As Canada, Mexico and the United States embark on the renegotiation of the continental trade deal, the process will be a test not only of Canada's negotiators but of what Tom d'Aquino refers to as the sang-froid of the Trudeau government's approach to the Trump administration.*

**D**uring his bid for the presidency of the United States, Donald Trump denounced the North American Free Trade Agreement (NAFTA) as “the worst trade deal in history.” He promised to renegotiate terms more favourable, in his view, to the United States or walk away. The NAFTA, which came into force in January 1994, was built on the foundations of the 1987 Canada-U.S. Free Trade

Agreement. Both agreements at the time represented the highest achievement of tradecraft and inspired a bevy of future trade agreements worldwide.

But even the sturdiest of institutions lose their edge if they do not keep up with the times. It has been clear to continental trade activists such as myself for two decades that the NAFTA needed to be updated. How many of us remember debates in the late 1990s

about the need for a NAFTA-plus? Or the hugely ambitious Security and Prosperity Partnership (SPP) concluded in 2005 by Prime Minister Paul Martin and presidents George W. Bush and Vicente Fox? These initiatives did not bear fruit. So, we should not be surprised or disappointed by calls for a modernization of the NAFTA. After all, the economies, industries and work forces of North America have changed greatly since 1994 and more advanced and progressive trade agreements have been crafted to deal with the new environment shaped in large part by the digital revolution.

The bold and far-reaching Trans-Pacific Partnership (TPP) in recent years was a laudable effort at embracing North America and the Pacific region within a framework of advanced policies and rules. Trashed by the Trump administration, the TPP without the

participation of the U.S. is more or less on life support. On the other hand, the Canada-European Union Comprehensive Economic and Trade Agreement (CETA), while applicable only to Canada and the European Union, is arguably the most advanced agreement of its kind in the world. Some provisions of both the TPP and the CETA provide good examples on how best to improve the NAFTA.

Negotiations on the modernization of the NAFTA offer Canadians, Americans and Mexicans an opportunity to craft “new age” provisions that will enhance job creation and worker adjustment, spur innovation, generate higher levels of prosperity and boost the continent’s global competitiveness. This is a *carpe diem* moment for all three countries which can lead to a triple win.

**B**efore moving from the status quo to the new NAFTA, it is important to accurately assess what has been the effect of the current agreement. In an address in Ottawa on August 14, Foreign Affairs Minister Chrystia Freeland highlighted the successes of the NAFTA. “The North American Free Trade area is now the biggest economic zone in the world,” she declared. “Canada, the U.S. and Mexico together account for a quarter of the world’s GDP, with seven percent of its population. Since 1994, trade among the NAFTA partners has roughly tripled, making this a \$19-trillion-dollar regional market, with 470 million consumers. Canada’s economy is 2.5 percent larger every year than it otherwise would be, thanks to the NAFTA. (It is as if Canada has been receiving a \$20 billion cheque each year since NAFTA was ratified.)”

Add to Freeland’s outline of the benefits of the NAFTA the fact that in North America we have built the most advanced cross-border supply chains in the world. Canada, the United States and Mexico make vast quantities of high quality products together. We share research, technologies, and closely integrated transportation systems. Together we create millions of well-paid jobs.

“*Freeland signaled clearly that Canada sees some attractive opportunities in the negotiations ahead. These include bringing into the NAFTA domain sectors such as services and e-commerce—a move that will be welcomed by Canada’s technology sector.*”

The broader achievements of the NAFTA are sometimes overlooked. In Canada, thinking and working within a dynamic continental market has made our workforce and our industries more globally-minded. In Mexico, the NAFTA has helped advance democratization, financial stability and the rule of law. In the United States, the NAFTA has demonstrated that shared sovereignty, as is the case with independent dispute-settlement mechanisms, can lead to a more orderly management of trade.

The NAFTA is far from perfect, however. It clearly has led to some job displacement to Mexico due to its lower wage conditions. It has not lived up to its aspirations via its side agreements on labour and the environment. The hard-won dispute-settlement provisions have not performed optimally. Regulatory reform remains in the slow lane and government procurement is still quite constrained.

On July 17, the Trump administration via the office of the United States Trade Representative (USTR) tabled a summary of its negotiating objectives. A high priority is reducing the United States trade deficit although no indication is offered as to how this would be accomplished. The negotiating objectives include controversial subjects such as the elimination of Chapter 19 independent dispute-settlement panels and tougher rules of origin. At various times in recent months, subjects of special interest to Canada have been targeted for criticism by administration officials. These include: agricultural trade and in particular supply management, foreign ownership restrictions, the protection of cultural industries, and rules governing intellectual property. At the time of writ-

ing, the softwood lumber dispute remains unresolved.

On August 3, the Mexican government released its negotiating priorities. They include maintaining preferential access for goods, eliminating barriers to trade, improving customs procedures and updating labour and environmental chapters. It calls on the United States and Canada to “modernize all NAFTA dispute resolution mechanisms (investor-state, state-state, as well as anti-dumping and countervailing duties, and financial services) to make them more agile, transparent and effective.”

Freeland shed some light on Canada’s negotiating priorities in her August 14 address at the University of Ottawa. While no doubt not wishing to show Canada’s hand in too much detail, the broad outlines of the government’s strategy have begun to take shape. Rather than deal with the United States on a defensive basis, Freeland signaled clearly that Canada sees some attractive opportunities in the negotiations ahead. These include bringing into the NAFTA domain sectors such as services and e-commerce—a move that will be welcomed by Canada’s technology sector. She has identified cutting red tape and harmonizing regulations as a core objective. Drawing on the example of the CETA, she signaled that Canada would seek a freer market for government procurement. Also, drawing on the CETA, the minister is seeking the easing of restrictions on the movement of professionals across borders, indicating a desire to review NAFTA’s Chapter 16.

**A**ddressing Canada’s “national interest”, Freeland insisted that the government will support a process “to ensure anti-dumping

and countervailing duties are only applied fairly when truly warranted” and, significantly, declared that the NAFTA exception to preserve Canadian culture and the system of supply management are to remain untouched. In defending independent binational review panels currently contained in Chapter 19 of the NAFTA, Freeland is echoing the affirmation of Prime Minister Trudeau that this provision remains central to Canada’s negotiating position.

Since it became clear that a NAFTA renegotiation under President Trump was inevitable, the Trudeau government has spoken of the attractions of a modernized and “progressive” NAFTA. The clearest indication to date of Canadian thinking on the meaning of “progressive” was revealed by Freeland’s commitment to push for labour safeguards and environmental protection as part of the core Agreement. Add to this commitment the intention of Canada to propose integrating chapters on gender rights and Indigenous peoples. While the recently updated Canada-Chile Free Trade Agreement incorporates reference to gender rights, the inclusion of Indigenous peoples is a first in North American trade discussions. Explicit language dealing with Indigenous people is yet to be revealed, but we can be certain that this negotiating objective will capture considerable attention in Canada, and especially in Mexico, where the economic benefits of the NAFTA are perceived not to have benefitted the country’s Indigenous population.

The Trudeau government’s desire to introduce such progressivity into a new NAFTA and future binational and multilateral free trade agreements is sensible. The protection of labour rights and the advancement of “fair trade” rules will resonate in both Republican and Democratic circles in the United States. It also will resonate in government and opposition circles in Mexico where NAFTA has not delivered on its promise to promote strong growth and reduce the still broad income gap between rich and poor.

While some critics are concerned about attempts to introduce progres-

sivity into so called “new age” trade agreements, I believe they are shortsighted. When I was a professor of international trade many years ago, it was considered unacceptable to link trade and commerce with social objectives. Forty years of experience at the forefront of private sector engagement with trade agreements and seeing the uneven effects of globalization have taught me otherwise. In this age of raging populism marked by income inequality, nationalist and protectionist fervour, and deep suspicion of elites, trade agreements must serve both economic and social objectives in order to win public acceptance.

“ **Explicit language dealing with Indigenous people is yet to be revealed, but we can be certain that this negotiating objective will capture considerable attention in Canada, and especially in Mexico, where the economic benefits of the NAFTA are perceived not to have benefitted the country’s Indigenous population.** ”

The Prime Minister and his team have managed with skill and *sang-froid* the challenging circumstances brought on by the Trump administration. The vigorous “all America” outreach to the U.S. administration, the Congress and governors, carried out by the federal and provincial governments, the business community and by other interested actors, has been remarkably effective. Close consultations with the Mexican political leadership continue to be fruitful. The Canadian negotiating teams are experienced and ready. And in Freeland, Canada has a knowledgeable and indefatigable spearhead.

With negotiations just getting underway, it is impossible to foretell their direction. One scenario is that

the Trump administration supported by the Congress will push for a rapid outcome with some demonstrable wins. This would give the president a badly needed political victory in advance of next year’s mid-term elections. From Mexico’s perspective, a conclusion of talks by the year’s end would be ideal given its national elections next July. While Canada, if necessary, could play for more time, an early conclusion of the negotiations would serve the national interest so long as primary objectives related to NAFTA market access and dispute settlement are not sacrificed.

**A**s the NAFTA negotiations move forward, Americans, Canadians and Mexicans should embrace a broader vision of North America: of three sovereign nations working in harmony; of a continent where the rule of law reigns supreme, diversity is an asset, and human rights are valued above all; of an inclusive economic system where jobs are plentiful and income inequality is falling; of advanced industries sharing technologies and best work practices; of the best human talent available from any part of the world; of continent-wide educational cooperation; of world-class infrastructure and advanced transportation systems; of energy development that powers our collective strength.

With the exception of a few die-hard advocates, this vision presently has little currency. Some will argue that such a vision in the face of Trump populism does not stand a chance. But the Great Republic is much bigger than any single leader or movement and the logic supporting closer cooperation on many fronts across the continent is overwhelmingly strong. A successful renegotiation of the NAFTA and a modernized Agreement could over time serve as the driving force for a North American renaissance that will secure the region’s global primacy for many decades to come. **P**

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# Talking With Americans

Perrin Beatty

*The world is much smaller than it was a quarter-century ago, when NAFTA was first negotiated. While American politicians, stakeholders and negotiators still don't always know Canada as well as we, being the smaller market, know the U.S., they've been catching up. As veteran policy maker and Canadian Chamber of Commerce CEO Perrin Beatty writes, the most interesting part of the NAFTA negotiations has yet to come.*

A few years ago, Canadian comic Rick Mercer had a segment on his show called "Talking to Americans," in which he'd do interviews on U.S. streets with ordinary folk to reveal the lack of knowledge about Canada south of the border.

Invariably, his gullible guests would go along with his whopping lies—one lady strongly condemned Canada's plan to pummel caribou to death with Timbits.

But even when they were inadvertently patronizing us, like the woman who congratulated us for finally getting running tap water, the Americans were well-meaning, concerned and kind. The segment was hilarious and lovely at the same time.

It also encapsulates the situation the Canadians are facing as the NAFTA talks are beginning. Canadians going south of the border to promote the trade relationship between our two countries and defend business interests are often met with sympathetic but unaware partners.

NAFTA has allowed the Canada-U.S. trade relationship to coast along, growing steadily since implementation in 1994, but not really being at the forefront of anyone's concerns. Now that this relationship is in the process of being altered, there's some catching up to be done.

Since the election of Donald Trump, the Canadian government and Canada's business



Donald Trump delivers his first State of the Union Address to a Joint Session of Congress. As Perrin Beatty points out, it's the 100 Senators and 435 Members of the House, who Canada has been working on, reminding them of the importance of NAFTA for jobs in their states and districts. *Wikipedia photo*

community have launched a massive effort to engage with and influence Americans in the halls of Congress and the streets of small towns across the U.S.

The first step is to inform and engage our American counterparts on just how lucrative and thoroughly integrated our economies have become thanks to this successful trade agreement.

And as Canada's political and business leaders branch out in Washington to meet with virtually every representative in Congress, every senator and every cabinet secretary, we are speaking with one voice, and one simple message: "We are your customers and

your partners. Things that hurt our economy will bounce back into your cities and towns immediately."

The most famous delivery of this message occurred when Canada's foreign affairs minister, Chrystia Freeland, reminded the powerful speaker of the House, Wisconsin's Paul Ryan, that his district exported a billion dollars of goods to Canada every year. A smiling Mr. Ryan reportedly shook his head and commented ruefully, "Somebody's done some good research!"

This energetic campaign that has been taking shape—essentially a crash course on continental economics—has worked well in Washington.

But the reality of America today is that a huge gulf exists between Washington and small town Main Street. Time and again our American colleagues have pointed out that political and business elites are not popular or trusted. Mr. Trump used that fact to great advantage: In his inaugural address he said: “Washington flourished—but the people did not share in its wealth.”

So, Canada needs more than its political leaders and its need to carry its message far beyond the Capitol. The most credible voices in America today are ordinary people, workers and business owners, discussing their own businesses and their own relationships.

**“ Now that the NAFTA negotiations have begun, we are faced with a different kind of American. This is no longer a sympathetic but ill-informed partner at the table, but rather a well-prepared, tough and collected negotiator. ”**

For instance, the Canadian Chamber of Commerce has been arranging meetings with elected officials in South Carolina, Virginia, Tennessee and Texas, with plans to go to Georgia and Florida. There, the elected officials are put in touch with Canadian businesses and investors, showcasing investments and collaboration between our economies.

These range from a tour of the CN Railroad Intermodal Hub outside of Memphis to a visit to a Bombardier Flight training centre in Dallas and many, many more. All of them have in common that they represent Canadian investments in the U.S. and contribute to creating jobs south of the border. And when elected officials or their representatives are shown the extent to which the Ca-

nadian and American economies are linked, their response is generally the same: “I had no idea.”

The trick, then, is to get these messages to circle back to Washington, and most importantly, to the U.S. Trade Representative and his team. Because over there, the conversation is quite different.

**N**ow that the NAFTA negotiations have begun, we are faced with a different kind of American. This is no longer a sympathetic but ill-informed partner at the table, but rather a well-prepared, tough and collected negotiator. The conversation can still be a positive one, however, as long as it’s about joint progress and mutual benefit.

In the negotiations that have taken place so far, rumours are that some common ground has been found. Refreshing some sections to incorporate the new realities of electronic commerce and reducing the administrative burden on manufacturers are positive and useful changes that all three countries agree on—in principle—and which will be supported by the business communities. American demands that we help interdict the flow of counterfeit goods is another area where Canada should respond positively.

As always, the devil is in the details, and the key issue will be not only to obtain changes on these elements, but to ensure that the changes benefit all three countries.

Similarly, negotiators have started to draw battle lines on the issues where Canada will be on defence because the Americans have signaled their demands many times. For instance, the original Canada-U.S. Free Trade Agreement emerged from frustration with endless legal wrangling, so the dispute settlement provisions in Chapter 19 are vital to the success of the agreement.

**O**n other issues, the lines are blurred. The Canadian government could find itself at odds with some business interests, for instance, when the U.S. or Mexico

starts requesting changes to Canada’s Patent Act which is a source of repeated complaint from the U.S.

By all accounts, the first round of negotiations was a table-setting exercise: the metaphorical equivalent of dogs sizing each other up. Much of the barking, and likely a few first bites, will come with the second and third rounds of negotiations, when each country starts to reveal its real motivations and objectives.

**“ Refreshing some sections to incorporate the new realities of electronic commerce and reducing the administrative burden on manufacturers are positive and useful changes that all three countries agree on—in principle—and which will be supported by the business communities. ”**

Canada will have some hurdles to overcome. Between the White House senior staff changes and Congress dipping its fingers in the negotiation process, there will likely be a diverse group of stakeholders to contend with. And that means a number of concerns to address.

A successful negotiation involves each party making concessions as well as making progress on elements of its own wish list. We can only hope this will be an example of such a give-and-take process.

Meanwhile, Canadians roll on across America, talking with friends, planning with allies and working towards a future that is at least as prosperous as the past. **P**

*Perrin Beatty is President and CEO of the Canadian Chamber of Commerce and a former cabinet minister in the Mulroney government at the time of the negotiation of the FTA and NAFTA.*  
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# Rail as the Transportation Hub of NAFTA: A Compelling Case Study

Jean-Jacques Ruest

*When NAFTA came into force in 1994, CN's operations in the United States were primarily limited to the Grand Trunk Western Railroad from Ontario through Michigan to Chicago. Today, the thirteen major states CN connects have a total GDP about three times the size of Canada's. CN has been an unequivocal NAFTA success story.*

**W**hen the North American Free Trade Agreement took shape in the early 1990s, the freight transportation world had an entirely different size and shape.

So did Canadian National.

CN was still a Crown corporation and very much a Canadian-focused railroad. But just as NAFTA would define Canada's economy for the coming decades, the influence of the historic trade agreement also became a backdrop to CN's transformation.

Since NAFTA came into force in 1994, CN's share of business in the United States and across the board has roughly tripled.

Visionary CN leaders such as Paul Tellier, who served as the company's chief executive officer from 1992 to 2003, overseeing its privatization in 1995, looked at NAFTA and other Canada-US free trade agreements and recognized that trade flows going north-south would increase dramatically.

Canada's economy was already dependent on trade with the United States, but NAFTA would solidify that economic reality for generations to come.

In the mid-1990s, CN's market reach into the United States primarily stopped in Chicago. The railroad's revenues were dominated by Canadian business, along an east-west trade flow, and fueled by such markets as grain and forest products.

A single main route from Ontario

through Michigan, and on toward Chicago—known as the Grant Trunk Western Railroad—had long given CN a taste of the U.S. market, especially in the automotive manufacturing industry.

A bold and significant investment in CN's international high-clearance rail tunnel between Sarnia, Ontario and Port Huron, Michigan, positioned CN for new growth. But the company's then-small U.S. network, the Grand Trunk corridor, would not itself be enough to compete and thrive in an irreversibly changing North American market.

**“When NAFTA came into effect 23 years ago, CN's rail operations in the United States ran at a deficit. That would all begin to change in 1998 with CN's purchase of the Illinois Central Railroad, a game-changing move to reshape the railway's map and line up with growing north-south trade flows.”**

When NAFTA came into effect 23 years ago, CN's rail operations in the United States ran at a deficit. That would all begin to change in 1998

with CN's purchase of the Illinois Central Railroad, a game-changing move to reshape the railway's map and line up with growing north-south trade flows.

The Illinois Central expanded CN's reach. With hundreds of miles of new track, its network now ran parallel to the Mississippi River, through the rich agricultural and industrial heartland of the United States, reaching the Gulf of Mexico ports of New Orleans and Mobile, Alabama.

Two years later, the addition of the Wisconsin Central railroad network across the resource-rich Dairy State brought new markets that continue to evolve. For example, the high-quality frac sand found across Northern Wisconsin today moves on CN's network to natural gas drilling operations in Alberta and British Columbia, and to locations across the United States. Frac sand, used in the hydraulic fracturing process to extract petroleum products from rocks, represents one of the company's fastest growing business units.

Later purchases of Great Lakes Transportation with its regional railroad in Minnesota and fleet of bulk vessels operating on the Great Lakes, and later the Elgin, Joliet & Eastern Railway in busy suburban Chicago, filled in the gaps for CN.

**S**ince the infancy of NAFTA, the company has transformed itself—from a transcontinental

Canadian railway to the North American industry leader reaching three coasts and 16 U.S. states.

CN's network taps ports on the Pacific, Atlantic and Gulf coasts and the railway made new partnerships with the ports of Prince Rupert, Halifax, Montreal, Vancouver, Mobile and New Orleans, and significant investments with inland intermodal terminals in Minnesota, Indiana, Wisconsin, Illinois and Michigan.

The network's reach puts CN in the sweet spot of a North American economy rich in manufacturing, automotive, merchandise, agricultural, energy commodities and consumer products, while connecting Asia and European trade flows to central Canada and the U.S. Midwest.

With this remarkable geographic change, CN also reinvented itself internally to play a leading role in the dynamic transformation of the integrated North American supply-chain needed to move the products we all use from fields, factories and other continents to our store shelves.

The movement of raw materials, advanced industrial products, or goods

ready to be consumed always involves a combination of different modes of transportation through a borderless logistics journey.

*“ The movement of raw materials, advanced industrial products, or goods ready to be consumed always involves a combination of different modes of transportation through a borderless logistics journey. ”*

Take your car seat. The electrical components that allow you to position that seat just where you want it start in an ocean container in Asia, before heading to the Western United States by train to join with other parts that make up the motor. It moves in other containers and trucks to and from Mexico before landing in an assembly plant in Ontario.

The finished vehicle is later loaded onto a CN specialized railcar and heads to a dealer near you.

That's one small example of how our economy and the things we consume depend on trade and a seamless supply chain.

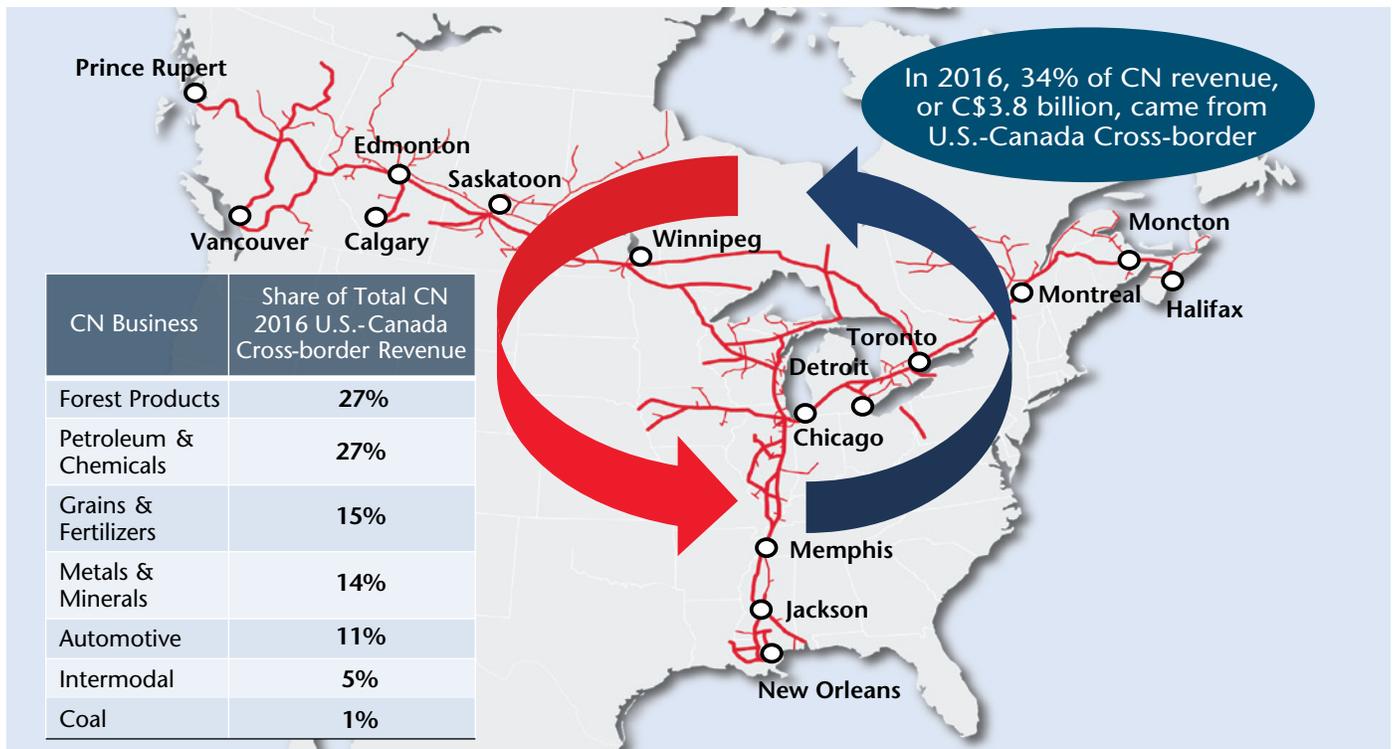
CN had to expand geographically and evolve the way it does business to provide our customers with an effective supply chain accessing these rich, vast and diverse markets.

For leading transportation and logistics companies like CN, trade agreements such as NAFTA, the Canada-European Union Comprehensive Economic and Trade Agreement (CETA), and Trans-Pacific Partnership (TPP) open new markets and mean ever increasing change in our competitive landscape.

CN's expansion and focus on supply chain collaboration positioned us to compete and win in new markets, with new trade rules.

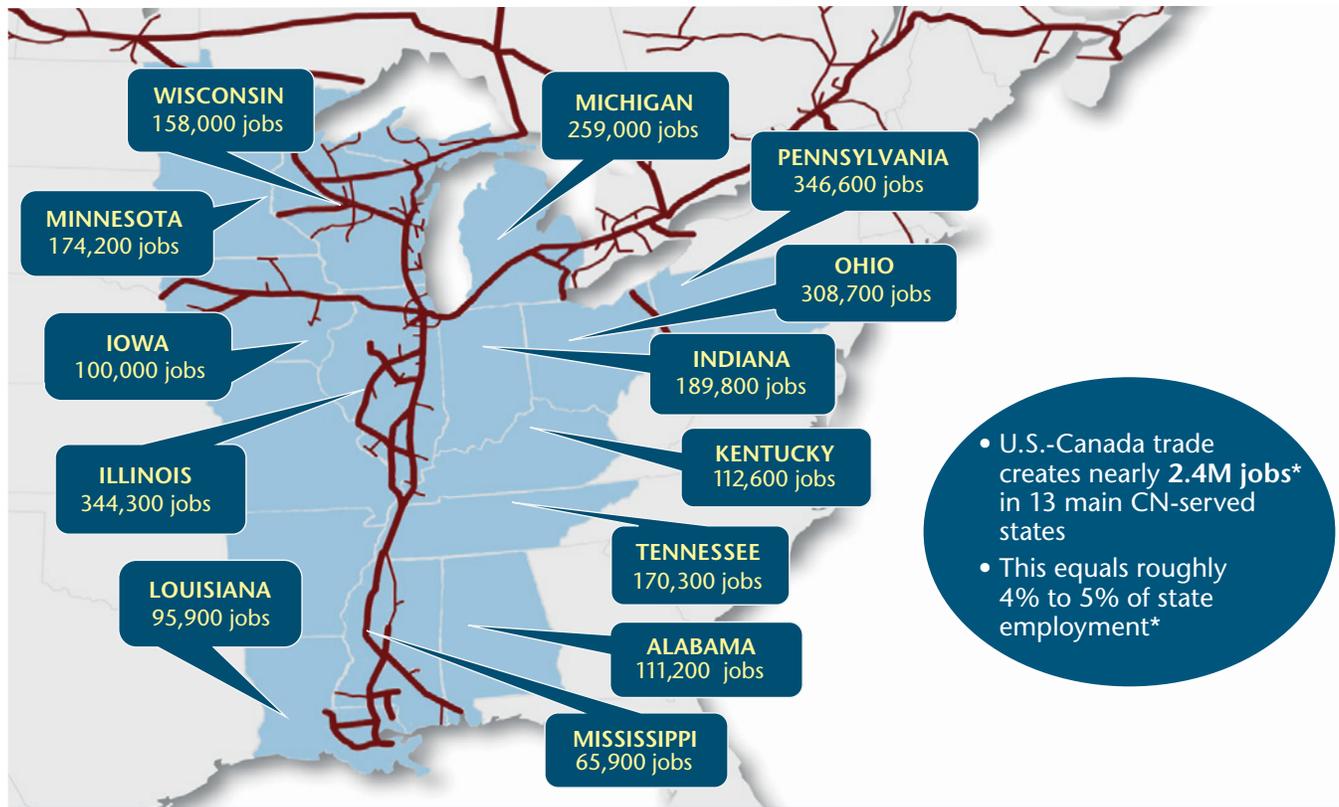
About 35 percent of CN's business involves trans-border trade, and when combined with what is strictly domestic U.S. traffic, half of CN's total

Figure 1: CN Facilitates North-American Trade



Source: CN

Figure 2: Trade Creates Jobs in the U.S. Manufacturing Belt



\* Source: Peter B. Dixon and Maureen T. Rimmer, "The Dependence of US Employment on Canada, 2013", Centre of Policy Studies, Victoria University in collaboration with the U.S. International Trade Commission

revenue comes from business that touches the United States. That make Montreal-based CN one of Canada's industrial champions.

Last year, CN moved about \$100 billion worth of goods between the United States and Canada. The major states CN now connects have a total GDP about three times the size of Canada's GDP. Of the 13 main states CN operates in, Canada is the largest trade customer in all but one of them, with the value of the goods traded with Canada totalling more than \$240 billion a year.

An efficient supply chain means a growing economy and more jobs for Canadians and Americans alike. In the 13 primary states CN serves, trade is responsible for nearly 2.4 million jobs.

As trade agreements such as NAFTA are re-examined, CN continues to innovate in order to serve other emerging econom-

ic blocks and trade corridors.

CN's goal is to open one new inland container terminal a year in the United States bringing new transportation products to facilitate trade opportunities.

Technology is also playing a greater role in these new opportunities as larger vessels, greater fuel efficiencies, and supply chain collaboration bring much-needed improvements to old transportation networks.

CN's CargoCool service is one example of new thinking in old transportation sectors. Investments in temperature controlled containers are allowing new products and more produce—ranging from poultry to vegetables to cosmetics and medicines—to move by rail.

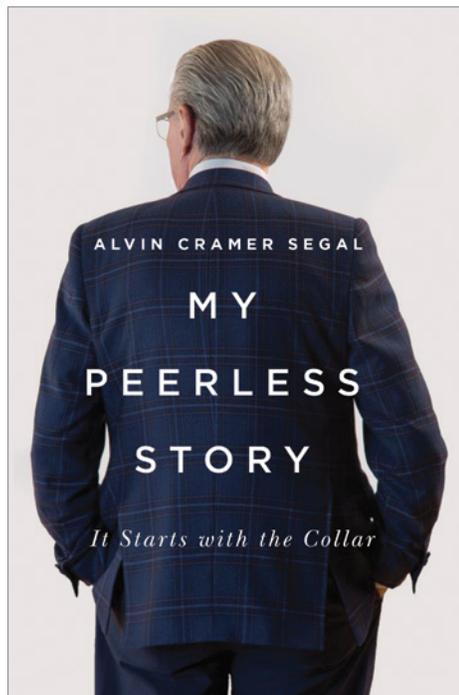
Nowhere in the world is there a more successful or balanced trade relationship than exists between the United States and Canada. Free trade has benefited all three NAFTA countries and

is contributing to growth and prosperity throughout North America, a trade area that is now the biggest economic zone in the world, accounting for a quarter of the world's GDP.

Louisiana Congressman Garret Graves said, "CN is helping move Louisiana's economy forward, creating jobs and linking our state to national and global marketplaces."

The *Globe and Mail* has called CN a NAFTA success story and the railway will continue to support a dynamic and integrated North American supply-chain, fuelling continued opportunity and prosperity for our partners, customers and neighbors on both sides of the border. **P**

*Jean-Jacques Ruest is Executive Vice-President and Chief Marketing Officer of CN with responsibility for providing strategic direction and leadership for the company's sales, marketing and supply chain solutions groups.*  
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## BOOK EXCERPT

# Winning Canadian Apparel in the FTA

Alvin Cramer Segal

*In this excerpt from his new memoir, My Peerless Story, Alvin Cramer Segal tells the inside story of how the Canadian apparel industry, and particularly Peerless, became big winners under the Canada-U.S. FTA and later, the NAFTA.*

After a lot of rumours, in mid-1985, negotiations finally started for what would become the Canada-U.S. Free Trade Agreement (FTA). Many Canadian industries were worried that big American companies would put small Canadian ones out of business. The Canadian government wanted advice and input from all those industries in Canada that would be impacted by the FTA and formed Sectoral Advisory Groups on International Trade (SAGITs) for each industry. Because of the textile-apparel war—which I had been deliberately fuelling at every opportunity—the government had the wisdom to finally separate textiles from apparel. On our own SAGIT, we could talk to government about the flawed system of duties on textiles, which had to be changed once and for all.

On the apparel SAGIT, I represented

men's fine clothing. Joe Schaffer and Elliot Lifson represented ladies' dresses, Peter Nygard represented ladies' sportswear, Oscar Rajsky represented the shirt industry, Jack Kivenko represented the cotton jeans industry, and Claude Lapierre represented the lingerie industry. There were others on the SAGIT representing additional sectors of the apparel industry as well.

Regular SAGIT meetings were held for three years, and I gathered a tremendous amount of knowledge throughout the proceedings. At the very outset, I was introduced to the words "imports" and "quotas" and began to gain a full understanding of their meaning and importance to our industry. Fabric availability was in the interest of every sector represented on our SAGIT. We could finally get down to ensuring access to fabric and raw materials without contending with the textile industry's agenda.

During the SAGIT negotiations, it became very clear that the apparel industry needed access to raw materials not made in North America to compete under free trade. U.S. retailers didn't need more of what they already had; they needed something new. All sectors of apparel manufacture—from ladies' lingerie to dresses and ladies' outerwear to men's clothing and outerwear—had the same problem: access to sufficient varieties of fabric to meet the demands of North American fashion retailers. Because our company had transitioned into producing wool suits, my issue with tariffs was all about wool. Wool was the fabric of choice in the men's fine-tailored clothing sector, and the biggest input cost in a men's suit.

As the sole representative of the men's suit industry on the apparel SAGIT, I made duty-free access to wool-worsted fabric a key demand. I made it clear to our federal negotiators that we wanted duty-free access to the hundreds of mills in Italy and the rest of the world. This would enable us to compete in the U.S. The textile and wool lobbies in the U.S. had tremendous influence over the U.S. free trade negotiators. In one meeting, one of the

U.S. negotiators stood up and, gesturing with his hands, said, “Canada is going to become a funnel for wool suits coming into the U.S. market.” Wool textiles was their major focus, and it became a potential deal-breaker for the U.S. negotiators, who insisted on imposing a quota on all types of garments coming into the U.S. from Canada, even though their main concern was men’s wool suits.

**“ I made duty-free access to wool-worsted fabric a key demand. I made it clear to our federal negotiators that we wanted duty-free access to the hundreds of mills in Italy and the rest of the world. ”**

My battle cry, dating back to the Lumley Task Force almost 10 years earlier, was “Duty-free access to raw materials not made in Canada,” and it brought negotiators to an impasse. I became the key spokesman for the apparel industry on fabric availability, an issue particularly crucial to the men’s suit business. U.S. negotiators really only cared about protecting the American textile industry, primarily the wool textile sector. Their team didn’t seem to care about apparel makers in the U.S. that weren’t using wool. At the eleventh hour, U.S. negotiators imposed a quota on garments coming into the U.S. that used imported textiles not made in North America. Wool was such a sensitive issue that the Americans ended up with two separate quota categories: one for wool and one for every other fabric used in the other sectors of apparel.

A similar quota was imposed on apparel coming into Canada from the U.S. The Americans had the same opportunity with their quotas, although it was never utilized. Under the quota system, ev-



Alvin Segal with Quebec labour leader Louis Laberge at a 1989 symposium on the Canada-U.S. Free Trade Agreement.

ery garment made of fabric foreign to North America was measured in square metre equivalents (SMEs) per garment, not by quantity of garments. Quota depended on how much fabric was used. A suit had five SMEs, a jacket had three, and a pair of pants had two SMEs, and so on. The entire wool quota in the FTA represented less than two per cent of the U.S. retail suit market. Peerless’s production at that time could have used the entire Canadian wool quota. I tried to demand more quota, but the U.S. negotiators wouldn’t agree. To me this meant that the FTA wasn’t free trade at all, but a protectionist trade agreement favouring the textile industry.

**“ We had another major advantage under the free trade talks. Since many other industries in Canada were against the FTA, the Canadian government needed the support of the apparel industry, which was a major employer. ”**

The apparel SAGIT committee also decided how the export quota would

be divided among Canadian manufacturers. The only experience we had was with the apparel quota system used in Southeast Asia, so we copied it: if a company exported a certain amount of SMEs in one year, the government gave them the same SME quota for the following year.

We had another major advantage under the free trade talks. Since many other industries in Canada were against the FTA, the Canadian government needed the support of the apparel industry, which was a major employer. By this time, I was a leading voice on the apparel SAGIT, and I saw this as an opportunity to have some long-hoped-for changes made. I was able to convince my colleagues to support the government passage of the FTA on condition that the Canadian International Trade Tribunal’s unfair system of rules and regulations was clarified and simplified in order to remove the duties on fabrics not made in Canada.

To secure our support for the passage of the FTA, the Canadian government offered apparel manufacturers the extraordinary provision of duty-free access to fabrics for five years, as a period to adjust to free trade. However, the government had one important condition: manufacturers would receive duty-free access only on raw materials scheduled for export to the

U.S. Offering U.S. retailers fabrics they didn't already have was crucial for the success of Canadian apparel manufacturers in the new market. To this day, I am very proud of my part in making this happen; it changed the way apparel manufacturers operate in North America.

As talks continued, the FTA was scheduled to come into force on January 1, 1989. No one in the industry knew which companies would win or lose when it came into effect, but I was intent on being one of the winners. Looking back, it would be easy to attribute Peerless's success to simple good fortune. Yes, a lot had to do with timing. However, making the right choices during the late 1970s and early to mid-eighties placed us in a position to take advantage of the dramatic changes that came with the FTA. I wasn't just flying on hunches; a lot of strategic planning had gone into the choices I made.

One important factor was that we didn't have to negotiate with an international union to make changes to our factory. Since we had our own

legally approved union, the *Fraternité des Travailleurs de Vêtements pour Hommes* or the "Fraternité," we had been able to produce the engineered suit much sooner and more easily than our competitors. The *Fraternité* was certified by the Quebec Department of Labour but still unrecognized by the Amalgamated International Union (then called UNITE), which was desperate to take over the *Fraternité*.

As well, I had learned a lot about import and export tariffs, duties, and quotas from my colleagues on the SAGIT. The slow transition we made over the years from man-made fabrics to wool, in order to improve the quality of our suits and get them into a better segment of the market, turned out to be one of the smartest business decisions I ever made. Historically, because wool worsted fabric was sourced from the British Empire, Canada had a favourable duty rate on any wool products coming from the UK (under the British Preferential Tariff, BPT). Canadian manufacturers paid eight-per-cent duty on British wool while Ameri-

cans paid 40 per cent duty on the same fabric. This meant that Peerless had a distinct advantage even before the Free Trade Agreement. Under the FTA, so long as there was available quota, we would pay no duty at all on our suits entering the U.S. That gave us an incredible advantage over U.S. suit manufacturers.

Additionally, our labour costs were down because the Canadian dollar had weakened against the U.S. dollar, and, as a result our product was even more competitive. We had a fabric advantage, the right product, and no international union stopping us from making changes. It was the perfect combination of ideal conditions and unique opportunities. I went away for my year-end holiday knowing that January 1, 1989 would be the start of a new era for Peerless. But in my wildest dreams, I never imagined how high we would fly. **P**

*Excerpted from My Peerless Story by Alvin Cramer Segal. By permission of McGill-Queen's University Press, Montreal and Kingston, 2017.*

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A digest and look-ahead from Canada's magazine of politics and public policy.



Column / Don Newman

## Can NAFTA Survive Trump?

It is both sad and terrifying to realize that much of Canada's future economic prosperity could depend on a man who is, at best, clearly unprepared and unsuited for his job, and, at worst, mentally unstable and unable to conduct it in any predictable, coherent or efficient way.

That man, of course, is Donald Trump.

In mid-August, Canada and Mexico began renegotiating the North American Free Trade Agreement with the United States. President Trump forced the negotiations on the two countries after first campaigning for and then winning the presidency by slugging NAFTA as "the worst trade deal ever signed by the United States."

Then in April, three months after becoming president, he threatened to tear up the 23-year-old agreement after meeting a few Wisconsin Dairy farmers who complained about Canada's supply-managed milk marketing system.

Trump was talked out of exiting NAFTA then by Prime Minister Justin Trudeau and most of his own White House economic advisers. But now there is no guarantee that the NAFTA talks that began on August 16 in Washington won't end up in the same place.

That's because since Trump took office on January 20, his White House has been in chaos.

First, there was his attempt at banning immigrants or visitors from seven Muslim majority countries in the Middle East that has been tied up in the courts since the end of January. His attempts, along with Republicans on Capitol Hill to repeal the health insurance program known as Obamacare have been similarly unsuccessful.

He has made no progress on changing the tax structure in the United States, or getting started on a major public-private infrastructure program, both of which—along with health care and the NAFTA renegotiation—were major campaign promises.

There is also a federal budget due this fall, and negotiations with Congress to raise the federal debt ceiling before the U.S. government stops paying its bills.

Instead of tending to this business, Trump has instead been recently challenging the equally unstable leader of North Korea, Kim Jong-un, with a war or words that threatens to escalate into something much more serious. And beyond that, the president making August particularly memorable by publicly sympathizing with white supremacists, neo-Nazis and defenders of monuments to Confederate generals.

Underlying all of this is the ongoing special investigation into links between Trump's presidential campaign and Russia. So far, Trump's eldest son, son-in-law and former campaign chairman have all been revealed as having Russian connections. The investigation continues, and as long as it continues, Trump is going to be seriously distracted.

Much of the world has, for the past 70 years, relied on the United States for economic, political and military leadership. Now, that leadership is evaporating in the nihilistic fog of Trump's "America First" rhetoric and policies.

No country is in more immediate peril than Canada. Along with Mexico over the past decades we have realigned our economy to fit the NAFTA framework. To some extent, the U.S. has, too. But with a much larger economy and so many other trading

partners, America without NAFTA would fare much better than either Canada or Mexico.

Trump campaigned on either renegotiating NAFTA so it favoured the United States or leaving the pact. Despite earlier saying NAFTA would need only a few "tweaks" as far as Canada is concerned, American negotiators have tabled a long list of one-sided demands.

Included in those demands is a rejection of the current independent dispute settlement process. Canada has said no independent dispute settlement mechanism means no NAFTA.

Given that the trade negotiations are the only item on Trump's agenda that seems to be moving, he may decide to pull the plug on the talks if he can't get his way, as he threatened to do in a speech in Arizona on August 22. In a peculiar way that would make sense only to him and his base, he could then claim he honoured his commitment to either change NAFTA to benefit America or break the treaty.

The recklessness of such a course of action would be apparent to most people. But not to someone who attacks the media for presenting "fake news" when he doesn't like the stories they run, claims accomplishments that are untrue and coozies up to people almost anyone else thinks of as dangerous and undesirable.

It is both sad and terrifying to realize that much of Canada's future economic prosperity could depend on such a man. **P**

*Don Newman is Senior Counsel at Navigator Limited and Ensign Canada, Chairman of Canada 2020 and a lifetime member of the Canadian Parliamentary Press Gallery. [dnewman@navltd.com](mailto:dnewman@navltd.com)*



# The Fiscal Update: A Golden Opportunity to Help Canada's Charities

Donald K. Johnson

*As what has become the near-year-round federal budget process gears up for Finance Minister Bill Morneau's annual fall fiscal update, officials will be weighing the most efficient methods of serving the needs of as many Canadians as possible. Donald K. Johnson, long a tireless advocate for Canada's charitable sector, has a suggestion.*

Prime Minister Justin Trudeau and his cabinet colleagues have repeatedly stated that their top priority is to support middle-class Canadians. Finance Minister Bill Morneau has a golden opportunity to put those words into action when he delivers his fall economic update sometime in the next few weeks. With a modest tweak to the rules for charitable donations, Morneau could do a huge favour to the many hospitals, universities, cultural groups and social service agencies (among others) that serve the needs of ordinary Canadians.

The minister would open a vast new source of funding for these organizations by allowing proceeds from the sale of private companies or real estate to be exempt from capital gains tax if the money is donated to a recognized charity. As a safeguard, the sale would have to be at arm's length. In other words, to a party with no connection to the donor, and the donation would have to be made within 30 days of the sale. The recipient organization would be allowed to issue a tax receipt for the donation in the same way it would for a cash gift.

Morneau would simply be continuing along the path that was opened

up in 1997, when then-Finance Minister Paul Martin halved the capital gains tax on charitable donations of listed securities. Nine years later, under Jim Flaherty at Finance, the new Conservative government took another step forward by removing the capital gains tax entirely on such gifts. Thanks largely to those moves, the Finance Department estimates that charities across Canada are now receiving about \$1 billion a year in stock donations.

The Tories' final budget in 2015 included a proposal to extend the exemption to donations of private company shares and real estate. But that measure was not passed into law before the election later that year, despite having support from all three parties in the House of Commons. Scott Brison, then the Liberals' finance critic and now Treasury Board president, spoke out in favour of the change, as did NDP Leader Tom Mulcair.

We estimate that extending the capital gains exemption to gifts from the sale of private businesses and real estate would generate an extra \$200 million in charitable donations a year, or about \$1 billion over the next five years. That's not exactly small change, and it could be even more, because the move would put Cana-



Dr. Sadhna Joshi and her research team. They are researchers funded by the Canadian Foundation for AIDS Research. *Wikipedia photo*

dian non-profit groups on an equal footing with their U.S. counterparts when it comes to soliciting donations. South of the border, gifts of appreciated capital assets, a definition that includes listed securities, private company shares and real estate, are currently exempt from capital gains taxes, which is an important reason why U.S. non-profits tend to be far better endowed than Canadian charities.

Some may see our proposal as a tax break for the wealthy. In reality however, it simply removes a barrier to charitable giving by encouraging the wealthy to give back to their communities instead of pocketing the proceeds themselves. The real beneficiaries would be millions of middle-class Canadians served by our vibrant non-profit sector.

I'm confident that, given such a change in the tax laws, many business owners would gladly channel much of their wealth back into society for the greater good, rather than keep it in the hands of a few family members. What's more, at a time when government funding for social programs is under threat, increased private sector support is more vital than ever. The stipulation that the sale of assets must be at arm's length should address concerns that buyers and sellers might put an unfair value on the asset to suit their own purposes.

The new exemption would also remove a glaring inequity in the Income Tax Act. At present, entrepreneurs who take a company public can donate some or all of their shares to a charity, free of capital gains tax. Yet those who choose to keep their company private are not entitled to the exemption. The Canadian Federation of Independent Business, which represents 109,000 private companies, strongly supports this proposal. After all, owners of small and mid-sized businesses play a vital role in growing our economy. They are an indispensable source of innovation, new products and competition. We should encourage them in every way we can.

**“ We estimate that extending the capital gains exemption to gifts from the sale of private businesses and real estate would generate an extra \$200 million in charitable donations a year, or about \$1 billion over the next five years. ”**

**W**e estimate that the federal government would forego \$50-65 million a year in capital gains tax revenues. The charitable donation tax credit would be the equivalent of \$200 million in cash donations, or approximately \$60 million for the federal government. The credit is essentially the same as a deduction from taxable income. Two-thirds of the cost would be borne by the federal government and one third by the provinces. There would be no cost to municipalities, because their tax revenues come from property, not income taxes. Every mayor in the country should welcome the exemption because it would provide extra funding to the charities that provide so many vital services in their cities and towns.

Here is a real-life example of how the measure would stimulate charitable giving. A good friend of mine has been a minority shareholder in a private company for more than 20 years. He can sell his shares to the founder and controlling shareholder at any time under an agreement that also determines the fair market value of the shares. If my friend sold his shares today, he would receive \$6 million, but would have to pay capital gains tax on whatever profit he made from the deal. Not surprisingly, he has chosen to hang on to his shares and will likely do so indefinitely under the status quo.

However, he has a keen interest in giving back to his community. If the capital gains tax on donations of private company shares was removed, my friend says he would gladly sell his shares immediately and donate the entire \$6 million to two charities—Trinity College School, his alma mater, and the Toronto Western Hospital's Eye Institute. This would be in addition to the \$25,000 a year that he already donates in cash to various good causes.

Last, but by no means least, the change we are proposing enjoys strong support among the management, volunteer board members and 2.1 million Canadians employed in the non-profit sector. Their organizations will reap the benefits of more generous private sector donations at a time when governments at all levels are facing budget challenges. They recognize that this proposal is the single most effective action that the government can take to stimulate more private sector funding.

We realize that tax changes are normally unveiled in the annual spring budget rather than the fall fiscal update. But the sooner an expanded capital gains tax exemption takes effect, the sooner the benefits will start flowing to our hospitals, universities and charities. The prime minister and the finance minister, with growing the middle class as their priority, should waste no time getting the job done. **P**

*Donald K. Johnson is a philanthropist, former investment banker and an officer of the Order of Canada. He was promoted to the officer level in 2009 “for his key role in changing Canada’s tax laws to eliminate the capital gains tax on gifts of publicly traded securities to registered charities, and for his support of health care research and the arts”.*  
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Prime Minister Trudeau meets with Emmanuel Macron, President of the French Republic, during the G7 in Taormina, Sicily on May 26.  
Adam Scotti photo

# We vs. Them: The Politics of Inclusion Versus the Politics of Resentment

Thomas S. Axworthy

*As Western democracies cope with the external challenges of both a rising, un-democratic China and a belligerent and emboldened Russia, uncertainty and fear fuelled by rapid change and technological transformation have impacted domestic politics. Veteran Liberal Party strategist Tom Axworthy warns that inclusive leaders will have to propose better solutions to stem the threat of populism.*

**W**e live in a time of upheaval. From climate change to globalization to artificial intelligence, change is sweeping over every aspect of life.

Rapid and complex changes make citizens anxious. They begin to hunger for stability, or a return to an idealized past. This, in turn, puts enormous pressure on leaders to respond to the underlying forces of change, and the fears they arouse. Unless the

public is assuaged, electoral change often follows. In the past year, the incumbent party or elected head of state in five of ten major countries has been defeated, resigned, or deposed. In 2017, we are witnessing a tempest bursting—and the name of this tempest is populism.

“*Today’s tempest of populism is not only ending political careers, it is threatening to destroy the inclusive liberal constitutionalism that has steadily evolved since the 18th century.*”

Today’s tempest of populism is not only ending political careers, it is threatening to destroy the inclusive liberal constitutionalism that has steadily evolved since the 18th century. The ideal of inclusion gives each citizen rights, protected by independent courts, an active media, and governance with checks and balances. Today’s wave of populism attacks these institutions.

Over the past three centuries, the ideal of inclusion has steadily expanded: An early victory was formal citizen rights, which gave individuals from all social, ethnic, regional, and socio-economic groups representation within democratic institutions. Formal rights were followed by demands for actual participation in important decision-making. For example, having acquired the formal right to vote, women called for gender-balanced representation in parliament. Next came equality of opportunity for those whose socio-economic status prevented them from fully participating in decisions that would affect their lives.

Yet, alongside the historical devel-



Populist voices—America First and Brexit: Donald Trump and Theresa May during the British PM’s White House visit in January. *Jay Allen Flickr photo*

opment of inclusion, another, more powerful idea emerged: the concept of people as a nation, or nationalism. The French Revolution began with the inclusive *Declaration of Rights of Man and the Citizen* in 1789, but it soon slipped into the excesses of the terror and Napoleon’s conquests. Nationalism was born at the same moment as individual citizen rights.

Nationalists give primacy to the group defined by ethnicity, language, or country. The clash between Inclusion and nationalism is about who gets to define “us” and “them”. The advocates of inclusion believe that “us” includes every citizen regardless of sex, ethnicity, religion, skin colour, or sexual orientation. Nationalists divide society into groups of “us” and “them”. They decide which characteristics are most worthy of being included in the “us”.

Nationalistic, “Make America Great Again” populism which asks who is “a real American?” has now become

a tool to destroy the inclusive ideal.

Populism describes a political movement that challenges the incumbent political elite and may even replace it. The actual term originates from the left-wing People’s Party U.S. presidential campaign in 1892, although populist movements go back to the founding of the Republic. There is no consistent ideology associated with American populism: It is sometimes opposed to corporate power (Andrew Jackson’s 1828 campaign promised to break up the Bank of the United States), other times it is opposed to immigration, as in the Know-Nothing movement in the 1850s. Populist movements have been most influential when they have infiltrated or even taken over one of the main political parties. In 1896, for example, populist followers of William Jennings Bryan succeeded in nominating him as the presidential candidate of the Democratic Party.

In the 21st century, the right-wing Tea Party carried out a similar coup within the Republican Party. The Tea Party movement began by winning primaries to elect friendly Republican members to Congress, and then used this base to help nominate Trump in 2016. Like the People's Party in 1892, the theme of the Tea Party was: America had once been great, but malignant forces were destroying the American dream, only in this case proposing a small-government, anti-taxation platform to restore it.

The difference between the populist American outbursts of the 1890s and today is that William Jennings Bryan lost, while Donald Trump won.

**“With so many countries, European populism has taken many different forms, but it has had one dramatic if narrow populist success like the election of Trump—the 2016 Brexit vote in the United Kingdom.”**

Europe is the smallest continent; but packed into this relatively small space is an enormous diversity of languages and cultures. With so many countries, European populism has taken many different forms, but it has had one dramatic if narrow populist success like the election of Trump—the 2016 Brexit vote in the United Kingdom.

The British vote by 52 to 48 per cent to leave the European Union in June 2016 had much in common with the American populist upsurge. In particular, the demographic profile of Brexit and Trump votes is remarkably similar. Like supporters of Donald Trump, Brexit voters were predominantly white, male, high-

**“The difference between the populist American outbursts of the 1890s and today is that William Jennings Bryan lost, while Donald Trump won.”**

school educated, and worried about their future. Surveys show that 73 per cent of the people who thought Britain had declined over the past decade voted for Brexit.

British politics continue to be buffeted by populist waves. Prime Minister Theresa May called a snap election for June 2017 to strengthen her position in the Brexit negotiations with the European Union. Instead, in an election shock, May's Conservatives lost 12 seats, Labour gained 32 seats—and the two major parties were nearly tied in the popular vote. Like Bernie Sanders, who challenged the Democratic Party from the left, Jeremy Corbyn won the leadership of the Labour Party by signing up many new young supporters on a platform rejecting the centrist policies of Tony Blair. Voter turnout in the 2017 election, in turn, increased to nearly 70 per cent with young voters, traditionally apathetic, dramatically increasing their support for Labour. Age is now the great divide in British politics.

On the continent, right-wing populism, has been on the rise. Although Marie Le Pen lost to Emanuel Macron in France's recent Presidential election, she still received 34 per cent of the vote. Representing the National Front, Le Pen doubled the votes garnered by her father when he ran in 2002. In Hungary, and Poland, anti-immigration nationalist parties have won recent elections. The resulting attacks on constitutional liberal norms, has led the European Union to consider removing both countries' voting power in the Union.

**E**uropean populism's main narrative is that a corrupt political class governs only for itself

and enriches itself through globalization, while the people of Europe suffer. The elite are also blamed for allowing immigrants to enter in large numbers, changing the cultures and traditions of Europe. Self-absorption of the elite, anti-immigration, and fear of globalization are all drivers of both European and American populism.

**“European populism's main narrative is that a corrupt political class governs only for itself and enriches itself through globalization, while the people of Europe suffer.”**

Perhaps the clearest indicator of the fertile ground in which populism can grow is the decline of trust. For 17 years, the Edelman Trust Barometer has tested whether people believe institutions will do the right thing. In 2017, Edelman reports an implosion of trust around the world. The general population's trust in four key institutions—business, government, NGOs, and media—has declined so broadly that Edelman concludes that, “trust is in crisis around the world.” Without trust, people's reaction to change turns into fear and it is fear that populist leaders exploit. In 2017 in the United States, for example, trust in the media was only 35 per cent, and government 37 per cent. Near 60 per cent of those polled said the system is failing them; 40 per cent were fearful about globalization and immigration; 36 per cent feared eroding social

values and 31 per cent feared the pace of technological innovation. Among the 30 to 40 per cent of Americans who were fearful about the future, 67 per cent voted in favour of Donald Trump.

Like the United States, Canada has a long history of populism. The centrist Liberal Party began as a populist movement in the 1850's, with the "Clear Grit" farmers rebelling against the establishment. The modern Conservative Party was formed in a 2003 merger between the populist Reform Party and the long-established Progressive Conservatives. The current Liberal government, led by Justin Trudeau, however, is unabashedly inclusive, strongly pro-immigration and in favour of free-trade and globalization—the very antithesis of the ideas driving the Trump/Le Pen populist movements.

Yet even in Canada, one can detect the potential of a populist uprising, though it would likely be centered on the themes of economic fairness championed by Corbyn and Sanders rather than the anti-immigration and trade policies of Trump. Recent surveys show that 81 per cent of Canadians support the North American Free Trade Agreement, and a clear plurality of Canadians support high levels of immigration. But, there is significant worry in Canada about the economic future, and fear is the motivation that drives populism. According to a recent Ekos study on the middle class, 74 per cent of Canadians believe the middle class is shrinking and only 27 per cent of Canadians say their children will be better off when they grow up.

In short, there is the potential in Canada for a populist eruption based on concerns about the economic future and anger over inequality and fairness: 71 per cent of Canadians, for example, believe the benefits of recent growth have ended up in the hands of the upper 1 per cent. There is turbulence swirling just below the surface of what

appears to be a forward looking and confident Canada.

**“ How the debate between nationalist populism and proponents of inclusion will play itself out is unclear. Europe’s risk profile on populism dropped a notch or two after Emmanuel Macron’s centrist victory, but it did not disappear. The 2018 congressional election in the United States will show how successful Trump will be in holding on to the presidency in 2020. ”**

How the debate between nationalist populism and proponents of inclusion will play itself out is unclear. Europe’s risk profile on populism dropped a notch or two after Emmanuel Macron’s centrist victory, but it did not disappear. The 2018 congressional election in the United States will show how successful Trump will be in holding on to the presidency in 2020.

For those who favour an open society and inclusion, the strategy should be to reach out to those who have been hurt by globalization and employ measures to better distribute its benefits. Bring the followers of Macron/Trudeau into an alliance with the voters of Sanders/Corbyn, and poach some of the moderate Tories who support globalization. Respect the voters who feel badly done by the system and acknowledge their concerns, but come up with better solutions. Isolate the Trump/Le Pen camp by encouraging a serious effort to help those most affected by globalization. Protecting the social safety net and fair labour regula-

tions, while promoting environmental sustainability is more important than squeezing the last bit of efficiency gains from trade. Inclusion must include those who have been left behind. An inclusive society is one where everyone has a chance.

The “we” must grow and the “them” diminish. **P**

*Thomas S. Axworthy is Chair of Public Policy at Massey College at University of Toronto and was Principal Secretary to Former Prime Minister Pierre Trudeau. taxworthy@rogers.com*

# Hanging by a Thread: British Columbia's NDP Minority Government

David Mitchell

*Among the other effects of British Columbia's recent improbably close election is that the province is living through the rare experience of minority government. Because of the precariousness of the NDP's control of the legislature, the possible scenarios for the province's politics have been multiplied exponentially. Former MLA David Mitchell games out the future.*

**H**ere's a skill-testing question: How many NDP premiers has British Columbia had? Can you name them?

This is a surprisingly difficult quiz, even for most British Columbians. Ever since 1933, when the NDP's predecessor, the CCF, became British Columbia's official opposition, the left-leaning option has been the province's would-be alternative. But it's a tribute to the political effectiveness of a variety of anti-socialist coalitions that the NDP has served as the governing party for only 13 years.

Now that they've secured one of their rare chances to govern this divided and polarized province, questions remain: how long will they last? And can they find a way to convert their minority government into a majority at the next provincial election?

With such a tenuous grip on power—41 seats to the Liberals' 42 and dependent on the support of the three elected Green party MLAs—it

will be fascinating to see what they do with the opportunity.

Given that it's been 16 years since the NDP last governed in Victoria, you'd be forgiven for puzzling over the questions posed above. The truth is John Horgan has now become the sixth NDP premier of the province, preceded by: Dave Barrett, Mike Harcourt, Glen Clark, Dan Miller, and Ujjal Dosanjh.

Today, the only Canadian NDP governments are located in the two westernmost provinces. And at present, the governments of B.C. and Alberta seem to have as many policy differences as similarities. However, there are numerous examples of previous NDP governments in our country that can serve as useful reference points for Premier Horgan. While the party has never been victorious in a federal election, the NDP has actually governed in a majority of Canadian provinces. In addition to B.C. and Alberta, they include Saskatchewan, Manitoba, Ontario, Nova Scotia and the Yukon.



Premier John Horgan's minority NDP government will have a bit more breathing room in the legislature now that Christy Clark has stepped down as Liberal leader and also resigned her seat. *BC NDP Flickr photo*

So, the new B.C. government could model itself on the stable approaches of Allan Blakeney or Roy Romanow in Saskatchewan or Gary Doer in Manitoba. Or it could burn itself out like the one-term administrations of Bob Rae in Ontario or Darrell Dexter in Nova Scotia.

Closer to home, will Premier Horgan position himself as a moderate leader, like former B.C. Premier Mike Harcourt? Or will he let the pent-up ambitions of his long-serving opposition party get the better of him, like the province's first NDP Premier, Dave Barrett?

**I**n the B.C. context, what is truly remarkable is how John Horgan fits into a noteworthy pattern

that crosses party lines and which has consistently seen dramatic personality differences in successive elected leaders. The province has long been known for electing flamboyant, confident, larger-than-life premiers, whose personalities have often overshadowed their party's policies or ideology. Less commonly noted is that in order to recover from the excesses of the politics of personality, British Columbians have unfailingly found respite in rather bland and colourless personalities in their subsequent choice of premier.

**“ Will Premier Horgan position himself as a moderate leader, like former B.C. Premier Mike Harcourt? Or will he let the pent-up ambitions of his long-serving opposition party get the better of him, like the province's first NDP Premier, Dave Barrett? ”**

In this sense, the rather understated Horgan is a perfect antidote to the garrulous and outgoing Christy Clark, just as she served as a counterpoint to the technocratic Gordon Campbell who, in turn, followed the fire-breathing partisanship of Glen Clark. Indeed, one could pursue this historical trail of elected B.C. premiers back in time with surprising consistency. If the pattern holds in the future, Horgan will almost certainly be followed by a more colourful populist premier who fits this well-established B.C. tradition. But it's worth noting that the big-personality B.C. premiers, such as Bill Vander Zalm, have generally not served for as long in office as those who were less colourful, like Bill Bennett.

In the meantime, the fledgling NDP minority government faces numer-

**“ Today, the only Canadian NDP governments are located in the two westernmost provinces. And at present, the governments of B.C. and Alberta seem to have as many policy differences as similarities. ”**

ous policy and governance issues. Following the indecisive election results, the formation of the government actually provided a good civics lesson for British Columbians: it's not necessarily the party that wins the largest number of seats or most votes that forms a government; rather, it's the party that can command the confidence of the legislature. For as long as the NDP maintains that confidence, it will need to demonstrate an ability to provide a steady approach and sound public policy.

How the government is able to manage a minefield of issues, including the proposed expansion of the Kinder Morgan pipeline, the future of the Site C dam project on the Peace River and the commitment to the Greens of pursuing the seemingly cursed goal of electoral reform, will provide key tests for the NDP.

**W**e know that minority governments can be productive; there's of plenty of evidence of this in other parts of Canada, including at the federal level. But B.C. doesn't have much experience with minority administrations and of critical importance is the role of the Greens in holding the balance of power.

Some observers have suggested that the electoral breakthrough for the Greens has heralded a transformation of the party system in B.C. Based upon parliamentary experience elsewhere, however, junior partners in governing coalitions or alliances often suffer political misfortune. It's just as possible, therefore, that the Greens will end up as either a passing fancy or as political roadkill in the next general election if B.C. returns to its traditional polarized model.

Christy Clark's resignation as leader of the Liberal party and as an MLA has given the NDP a bit of breathing room, for a few months at least. In the short term, the government won't need to count on the Speaker to cast a deciding vote on all matters that come before the legislature. But a by-election to fill Clark's vacant seat can't be long deferred and a new leader of the Liberal party may be keen to try to defeat the NDP government at an early opportunity.

The average duration of minority governments in Canada is approximately 18 months. With that in mind, Premier Horgan almost certainly has his eye out for an exit ramp leading to the next provincial election. And he would be well-advised to study the fortune of the only other minority government in B.C. history.

Following the indecisive 1952 provincial election, W.A.C. Bennett became premier of B.C.'s first Social Credit government. Lacking a majority of seats in the legislature, the wily Bennett knew that his inexperienced administration couldn't last for long. He therefore worked hard on a strategy to engineer his government's defeat on an issue he could successfully take to the people in an election campaign. The issue was a complex education financing measure that favoured rural school districts. Bennett's strategy paid off; his government was defeated in the House and he went on to win his coveted majority government in the 1953 election, less than a year after he had become premier. He would remain in office as premier for two decades. **P**

*David Mitchell is a political historian, former B.C. MLA and currently serves as President & CEO of the Calgary Chamber of Voluntary Organizations. dmitchell@calgarycvo.org*



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Ottawa ↔ Québec	Jusqu'à 8	482 km	<b>5 h 23 min</b>	4 h 39 min	488 \$	<b>44 \$</b>	444 \$
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# An Open Letter to the Prime Minister and the Minister of Finance

The Right Honourable Justin Trudeau,  
P.C., M.P.  
*Prime Minister of Canada*

The Honourable William Morneau,  
P.C., M.P.  
*Minister of Finance*

Dear Prime Minister and Finance Minister:

I have campaigned passionately over the years to open new sources of funding for Canada's charities and other non-profits, including my role in eliminating the capital gains tax on gifts of publicly traded securities to registered charities.

On behalf of the non-profit sector, **I am now urging you to extend that exemption to the sale of private companies and real estate.** To safeguard to the public interest, the sale would have to be at arm's length, and the donation would have to be made within 30 days of the sale.

The case for this proposal is compelling:

- It would give many business owners an incentive to transfer a portion of their wealth to a good cause, rather than to their families. **The Canadian Federation for Independent Business, representing 109,000 private companies, strongly supports the proposal.**
- Owners of private companies would have the same incentive for donating their shares to a charity as currently applies to those who take their companies public.
- The exemption would put Canadian non-profit groups on an equal footing with their U.S. counterparts. The current discrepancy is an important reason why U.S. non-profits tend to be far better endowed than their Canadian counterparts.
- Extending the capital gains exemption would generate an estimated \$200 million in new charitable donations a year.
- Most importantly, expanded funding to our hospitals, universities and other non-profits will bring incalculable benefits to middle-class Canadians.

The sooner the expanded capital gains tax exemption takes effect, the sooner the benefits will start flowing. I therefore urge you to include this measure in the fall fiscal update.

Thank you!

Yours truly,

Donald K. Johnson, O.C., LL.D.



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