

# NAFTA renegotiation

## Highlights for your business

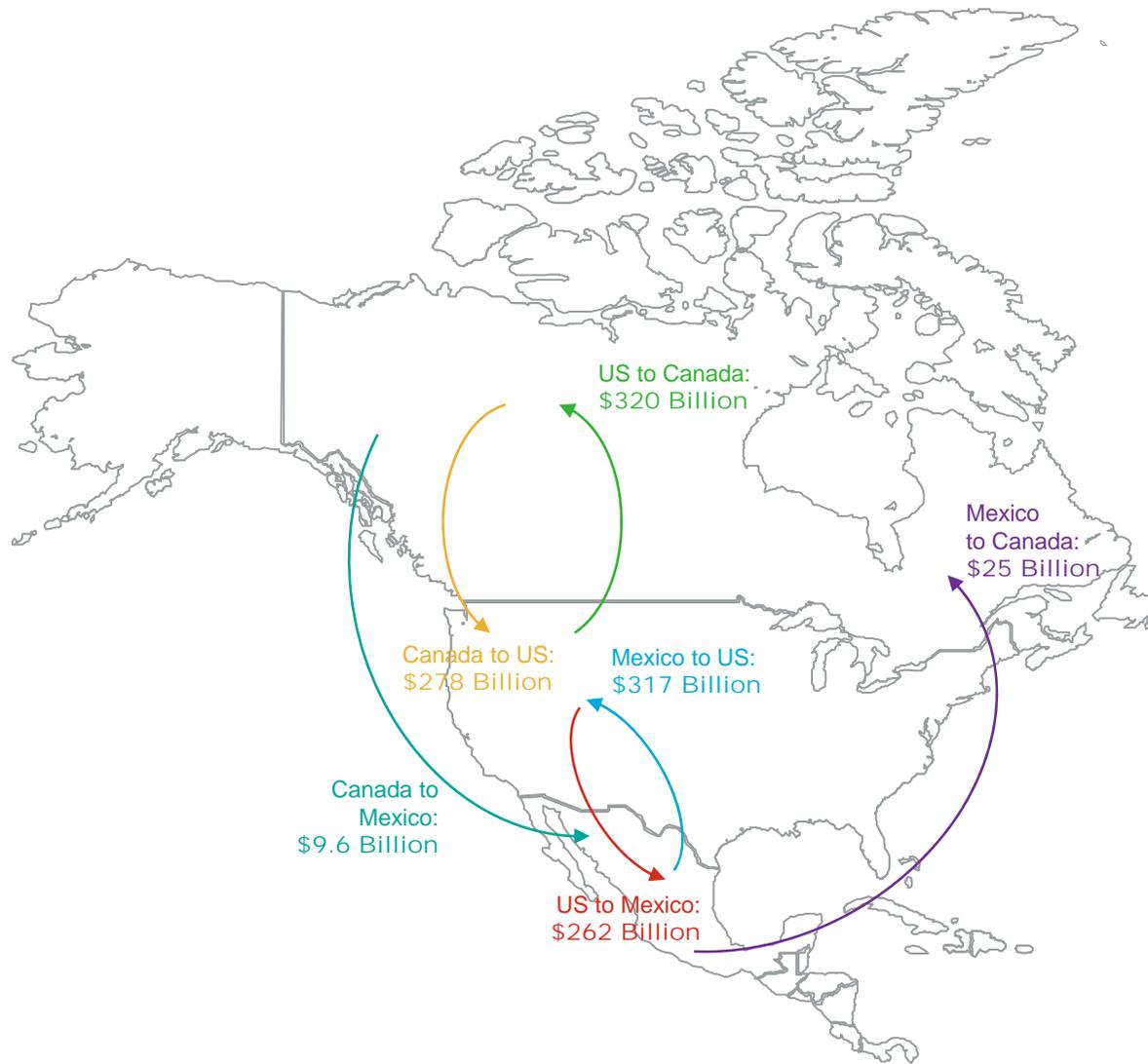
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# Overview

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  - Sensitive negotiation challenges
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  - implications for upcoming rounds
- **What can companies do?**
- **Q&A / Conclusion**

# Introduction



# 1990s FTA v. 2000s FTA

## TPP Chapters not in NAFTA

- |  |  |   |
|--|--|---|
| 1. Initial Provisions and General Definitions    | 11. Financial Services                                       | 21. Cooperation and Capacity Building           |
| 2. Trade in Goods                                | 12. Temporary Entry for Business Persons                     | 22. Competitiveness and Business Facilitation   |
| 3. Textiles and Apparel                          | 13. Telecommunications                                       | 23. Development                                 |
| 4. Rules of Origin                               | 14. <b>Electronic Commerce</b>                               | 24. Small- and Medium-Sized Enterprises         |
| 5. Customs Administration and Trade Facilitation | 15. Government Procurement                                   | 25. Regulatory Coherence                        |
| 6. Sanitary and Phytosanitary (SPS) Measures     | 16. Competition Policy                                       | 26. <b>Transparency and Anti-Corruption</b>     |
| 7. Technical Barriers to Trade (TBT)             | 17. State-Owned Enterprises (SOEs) and Designated Monopolies | 27. Administrative and Institutional Provisions |
| 8. Trade Remedies                                | 18. Intellectual Property                                    | 28. Dispute Settlement                          |
| 9. Investment                                    | 19. <b>Labour (NAFTA side letter)</b>                        | 29. Exceptions                                  |
| 10. Cross-Border Trade in Services               | 20. <b>Environment (NAFTA side letter)</b>                   | 30. Final Provisions                            |

# Canada's position

# Canada – Context

- FTA with US since before NAFTA - 1989
- Biggest export customer for US goods
- Generally close to balanced trade with the US (no large trade deficit)
- High degree of political consensus behind NAFTA and FTA's in general
- Competitive access to US market is existential for Canadian industrial/manufacturing base
- Two way trade with the US accounts for almost 40% of Canada's GDP
- Highest possible priority for the Government of Canada – daily front page news

## Canada – Negotiating priorities

- Retain as many of the benefits of the current agreement as possible – defensive posture
- Achieve some offensive objectives: Buy America/American, labor mobility, easing border procedures
- Stay the course: Reactive stance

# Canada – Negotiating priorities

- Specific targets:
  - Integrated environmental protections
  - Strengthened labour safeguards
  - Freer market for government procurement
  - Easing cross-border movement for professionals
  - Gender equality; indigenous rights
  - Preservation of supply management system
  - Dispute resolution (Chapters 11 and 19)

# Canada – Sensitive negotiation challenges

- Low value threshold for duty free imports
  - Current thresholds
    - US: US\$800
    - Canada: CA\$20
    - Mexico: US\$50
- Resistance from traditional retail sector
- GST/HST complications

# Canada – Sensitive negotiation challenges

- **Other challenges**
  - Supply management
  - E-commerce: Data privacy/sovereignty
  - Dispute resolution – Chapter 19

# Negotiation update: Round 4

# Conclusion of negotiation round 4

- **Formal release of US demands**
  - Gradual elimination of supply management
  - Increase to automobile rules of origin
  - Non-binding / voluntary dispute resolution under Ch. 11, 19 and 20
  - 5-year sunset clause
- **Substantive completion of Chapter on Competition**
- **Tone of negotiations**
- **Poison Pill?**

# Potential U.S. withdrawal?

- **Can the President unilaterally withdraw the U.S. from NAFTA?**
  - Omnibus Trade and Tariff Act 1988
  - What about Congress?
  - Executive Order as “nonjusticiable political question”
- **Revival of U.S. – Canada FTA?**
  - NAFTA Implementation Act
  - Agreement to “terminate the suspension”
- **Likely outcome of withdrawal:**
  - Proclamation of higher U.S. tariffs
  - Customs fees
  - End of temporary entry business visas

# What should companies do?

# Engagement opportunities

- Formal consultation process:



- Ministerial advisory NAFTA Council
- Ad hoc industry communications with public officials

# Practical guidance for navigating renegotiation

- NAFTA risk/sensitivity analysis
  - What are your top commodity imports/export across NAFTA borders?
  - What is the delta between the NAFTA duties (typically 0%) and MFN duties on these products?
  - Options to paying MFN duties
    - Domestic sources
    - Other free trade sources
    - Duty relief options (drawback etc.)
- Supply chain review
  - Typical trade terms with top suppliers and customers – do they address duty increase risk?
- Impact of “tightening” of origin rules or certification requirements
  - Review of origin certification process – as exporter to NAFTA customers and as importer. Meeting the requirements of other free trade options (e.g. CETA).
- Review of trade compliance policies and practices

# Practical guidance for navigating renegotiation

- **Consideration of potential opportunities in the renegotiations**
  - Regulatory coordination
  - E-commerce and data flows
  - Others?

# Q&A / Thank You

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