NAFTA renegotiations: Key issues to consider

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In the face of protectionist rhetoric emanating from the new United States administration, Canadian businesses should be concerned over the impact of the proposed NAFTA renegotiations. However, the direction these NAFTA renegotiations will take has yet to be determined and could even result in positive outcomes for Canadian businesses.

Until there is more clarity surrounding NAFTA renegotiations each business should identify its own, unique concerns about this process as soon as possible, and seek to have an impact on the outcome of the negotiations. There are, however, several key issues that will affect most Canadian enterprises and a few more that apply specifically to manufacturers.

The following is a list of the type of issues Canadian businesses need to consider and is by no means exhaustive.

1. **Communication of views** — How does my business make its views known about possible amendments to NAFTA? Who should I be contacting either in the United States or Canadian governments to propose possible amendments? How can a trade law expert help in advancing our proposals?
2. **Lobbying** — What trade association and lobbying activities can my business initiate with other industry players and governments on the NAFTA renegotiations?
3. **Vulnerable industries** — Which industries are most likely to be the subject of NAFTA amendments?
4. **Maintaining duty-free access** — Which potential adjustments to the NAFTA rules of origin would be beneficial, and which would be harmful to my business in accessing the US and Mexican markets duty-free?
5. **Contractual protections** — How does my business protect itself against NAFTA amendments and possible downside particularly in connection with supply contracts and rules of origin?
6. **Government sales opportunities** — Government purchases of goods and services can represent a substantial opportunity. If government procurement at the provincial and state levels is opened up in an amended NAFTA, what would be the impact on, or opportunity for my business?
7. **Regulatory barriers** — Which U.S. or Mexican regulations and technical standards pose a barrier to my business in competing in these markets? Could these be addressed in an amended NAFTA?
8. **Vulnerability to an unfair trade complaint** — Will amendments to NAFTA result in more trade disputes and cases? What is the vulnerability of my business to a trade complaint such as an anti-dumping case, countervailing duties case or a safeguards case in the U.S. or Canada? Are our home market selling prices higher than our export prices for the same kind of customer and same kind of goods? Are we making a profit on our export sales?

9. **Movement of people** — Could my business better serve its cross-border customers through more liberal temporary entry rules for business persons in NAFTA? How does the U.S. government’s recent ban on nationals of certain middle-eastern countries impact my business?

10. **Diversification** — If NAFTA benefits are possibly at risk, have I investigated alternative opportunities, such as those arising through the new Canada-EU free trade agreement?

We will continue to explore these issues as the NAFTA renegotiations unfold.
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