June 20, 2017

U.S. retailers and an updated NAFTA

Author(s): Riyaz Dattu, Margaret Kim

Our last international trade brief dealt with Global Affairs Canada seeking comments on NAFTA renegotiations, the increased enforcement of U.S. trade laws, a Trade Case Alert pertaining to anti-dumping import duties for gypsum panels shipped to Western Canada, and a Trade Case Alert dealing with a global safeguard investigation into solar panels imported into the U.S. In this brief, we discuss why Canada should forge ahead with the TPP without the U.S., U.S. retailers’ priorities for NAFTA renegotiations, public comments on NAFTA renegotiations, NAFTA becoming a battleground for trade-related IP obligations, and a Trade Case Alert relating to a Canadian anti-dumping and countervailing investigation being initiated for certain carbon and alloy steel line pipe from Korea.

On June 12, 2017, the National Retail Federation (NRF), the world’s largest retail trade association, submitted its comments to U.S. Trade Representative (USTR) Robert Lighthizer, outlining its priorities for the negotiation of a modernized North American Free Trade Agreement (NAFTA)(NRF submission).

In summary, the NRF requested that the Trump administration “do no harm” to the existing trade relationship, keep the negotiations trilateral, conclude renegotiations quickly, and ensure a seamless transition for any changes that are agreed upon.

In particular, the NRF submission included the following comments and priorities for the U.S negotiators:

- **Importance of regional value chains:** A modernized NAFTA should reflect today’s global value chains. The submission requested that the Trump administration negotiate for a provision that “permits companies to ‘cumulate’ value of goods produced within the NAFTA region with value of goods produced in other free trade agreement partners.”

- **Tariffs on goods:** Tariffs on all goods should remain fixed at zero. The submission notes that the U.S. should not issue quotas or marketing orders to restrict the imports of winter produce from Mexico, which provide U.S. consumers a variety of fruits and vegetables during the counter-cyclical growing seasons. The NRF also expressed support for enhanced market access for U.S. dairy and poultry producers into the Canadian market.

- **Customs and trade facilitation:** NAFTA’s customs and trade facilitation provisions should be updated
in accordance with the World Trade Organization’s Trade Facilitation Agreement and relevant provisions that were agreed to under the Trans-Pacific Partnership. Key provisions include the publication of customs laws, regulations and procedures; commitments to provide advance rulings; and enhanced customs co-operation.

In addition, the NRF submission also outlined key principles on digital commerce, services trade, labour and environment protections, and enforcement provisions that retailers view would improve trade and enhance regional integration among the NAFTA members.

The USTR received a total of 12,451 submissions by June 14, 2017. A number of these submissions have been posted and are available for viewing here. We would strongly recommend that Canadian businesses review these submissions and in turn provide their own negotiating priorities to the Canadian government by the July 18, 2017 deadline.
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CONTACT US
For more information, please visit osler.com or contact the following individual(s):

TORONTO
Riyaz Dattu, Partner,
International Trade and
Investment Law
416.862.6569
rdattu@osler.com

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