Intelligence MEMOS

From: Daniel Schwanen

To: Concerned Canadians

Date: May 7, 2018

Re: **Canada should steel itself for concessions that make sense, emphasize common ground in NAFTA talks (Part 2)**

In my previous memo, I discussed why a sensible approach to a new NAFTA agreement in which Canada (and Mexico) would give the US Administration some visible "wins", through intelligent compromises while building on areas of common interest.

What kinds of compromises should Canada contemplate? Let's look at the scenario of the US choosing to withdraw from NAFTA. Canada would have to emphasize becoming more competitive to compensate for the loss of market access to the US. Almost certainly, one part of this competiveness strategy would entail opening our markets more, not less, to other countries, in order to reduce the impact of higher trade costs with the United States.

Therefore, the most obvious way that Canada can "compromise," in exchange for restored predictability for Canadian producers in the US market, is to offer to remove trade and investment barriers that continue to exist against US firms doing business and investing in Canada.

Such moves might be politically unpopular, but they would boost Canada's competitiveness and economic growth potential.

This lowering of Canadian barriers should be coupled with fresh ideas for seamless, high-tech border procedures, including for temporary skilled workers and business travelers, and simpler rules of origin that could benefit small business in both countries (as suggested by Dan Ciuriak). Such a gambit would surely enhance the attractiveness for the US of a renewed NAFTA.

Yet, it also seems unrealistic to expect that a completely new NAFTA agreement can be reached within the month, the deadline currently being contemplated. Other possibilities should therefore be envisaged, short of a vague agreement in principle that would only prolong costly uncertainty.

One such possibility would be a "refurbishing" of the NAFTA, such as was recently agreed between the United States and South Korea regarding their 2010 free trade agreement. This would mean neither fully reopening nor quite reneging on the NAFTA, but constraining the application of some of its provisions to assuage US concerns about imports affecting jobs in key sectors, while preserving most of the benefits to workers and consumer alike of value chain integration across North America.

To be plain, we would then be talking about managed trade – limits on Canadian exports in certain sectors. To be acceptable to Canada, these limits would have to be temporary, apply to a few manufactured goods and to public procurement contracts only, replace any other duty or threat thereof, be expressed as a share of US demand rather than as a fixed quota, be subject to ratcheting up only rather than down from 2017 levels, and only be binding for products for which Canada exports more to the United States than it imports from it.

Canada would retain the right to similarly limit certain categories of US imports, though it may choose not to exercise that right.

Relatedly, Canada and the United States could agree to suspend the operation of Chapter 19 dispute settlement, controversial in the United States, while they negotiate improved rules concerning government subsidies and competition, as I had suggested here.

In all of this, preserving access to the United States market at least on par with that enjoyed by our competitors – the so-called most favoured nation treatment at the core of the post-war trading system – is vital, as the United States negotiates or renegotiates its agreements with other countries.

Finally, there should be a regular, joint, and independent public scrutiny of the effects of the new agreement on workers and consumers in the NAFTA countries, to limit misunderstandings about its impact.

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