WASHINGTON Examiner

Fuzzy details of US-Mexico trade deal plague American businesses

Joe Williams

September 4, 2018

As the White House rushes to finalize a tentative trade deal between the U.S. and Mexico, several of the agreement's provisions remain unclear, leaving open the possibility of significant opposition from American businesses and, ultimately, Congress.

The automotive industry, farmers, manufacturing firms, technology companies and retailers are all eagerly awaiting further details on the pact announced in late August that President Trump says is intended to replace the North American Free Trade Agreement. The administration is not expected to release its text until late September, forcing companies in the meantime to interpret the vague details in fact sheets from the U.S. Trade Representative as best they can.

“It’s hard for companies to sort out what happens and how this affects them,” Simon Lester, associate director of the Cato Institute’s trade policy center, said in an interview. “There are rules that could affect specific companies really badly," which means executives have to focus on the details.

At press time, the White House expected to formally notify Congress on Aug. 31 of its deal with Mexico and was still in talks with Canada. After the notification, the administration is required to release formal text within 30 days.

Time is precious for both Trump and Mexico: The White House wants to complete a deal before mid-term elections in November, and Mexico is racing to finish before a successor to President Enrique Peña Nieto is sworn in. The accelerated schedule still gives the two countries and Canada an opportunity to make revisions, but no changes are allowed once a final deal is submitted to the House and Senate.

American companies worry that may not be enough time to identify trouble spots. Carmakers, manufacturers and retailers, for example, are eagerly awaiting more information about new so-called “rules of origin” requirements.

The preliminary deal would require automobile manufacturers to produce enough of a car to account for 75 percent of its net price in the participating countries, up from 62.5 percent in the original NAFTA agreement. While some carmakers might adjust their operations relatively easily to meet the new standard, others could have to revamp critical parts of their supply chain or risk a 2.5 percent penalty tariff for noncompliance.

Along with the new production quotas, the deal would require that 40 to 45 percent of cars be built by workers who earn at least $16 an hour. Many U.S. firms initially moved production to Mexico to take advantage of low-cost labor after NAFTA was signed, and the change could force some of them to give up that edge.

"The first impact associated with that is driving pricing up in the automobile sector, and it will get to impacting the consumer at some point," Rajesh Kalidindi, chief executive officer of supply chain firm LevaData, said in a recent interview. "We're going to see some of the automotive suppliers in a bind with respect to gross margin over the next few years."

The U.S. Trade Representative's Office, in a fact sheet published last month, said the deal would reward textile production in the U.S. but did not provide details on how.

“If you make the rules of origin very restrictive, you’re going to see less usage of the free trade agreement,” Jonathan Gold, vice president at the National Retail Federation, told the *Washington Examiner*.

While the deal would weaken NAFTA provisions that allow companies to bring legal challenges against member countries over potentially discriminatory trade practices, U.S. trade chief Robert Lighthizer’s claim that the existing protections would remain for oil and gas producers and some other industries is causing confusion.

For the technology industry, the final language addressing safeguards for intellectual property, trade secrets and digital trade will be paramount. The U.S. Trade Representative's Office has indicated some of the measures could be similar to those included in the abandoned TransPacific Partnership, but there are concerns that the administration may buck the industry-preferred language on issues like copyright protection.

E-commerce companies, which routinely ship products between the three countries, will also be closely watching the final provisions around *de minimis* shipment value. Mexico currently has a $50 limit on cross-border shipments that can bypass customs and taxes. The deal with the U.S. would boost that amount to $100, below what many businesses had hoped for.

Of particular concern to all businesses was ensuring the inclusion of Canada — which Trump threatened to move ahead without — since corporations have spent decades building supply chains that take advantage of open borders between the three countries.

“To us, NAFTA still needs to remain a trilateral agreement," Gold said. "Companies have built these North American value chains over the years, and Canada has to be part of the deal at the end of the day.”