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by Carlos Navarro

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Trade, including two agreements involving Mexico, has become a key issue in the US presidential race. From Mexico’s viewpoint, the greatest worry is the threat by Republican candidate Donald Trump to withdraw from the North American Free Trade Agreement (NAFTA), which went into effect in 1994 in Mexico, Canada, and the US (SourceMex, Jan. 5, 1994). Trump and his Democratic rival, Hillary Rodham Clinton, have also come out in opposition to the Trans-Pacific Partnership (TPP), a broad agreement negotiated by the leaders of 12 countries in the Americas and the Pacific Rim (SourceMex, Oct. 28, 2015, and NotiSur, Feb. 12, 2016, and June 3, 2016). The agreement has yet to be ratified by the legislatures of the signatory countries and is in various stages of consideration by legislative bodies in seven of the 12—Brunei, Malaysia, Mexico, Japan, Vietnam, New Zealand, and Peru.

Trump and Clinton are both vying for the votes of blue-collar workers in the industrial states of the US Midwest. Voters in states like Ohio, Michigan, and Pennsylvania blame the free-trade policies of past presidential administrations for the loss of industrial jobs, which resulted from a relocation of factories to Mexico and Central America and the transfer of manufacturing and service operations that were once based in the US to other parts of the world.

Trump has promised to renegotiate or scrap NAFTA altogether. “Our horrible trade agreements with China and many others will be totally renegotiated,” Trump said in his acceptance speech at the Republican National Convention on July 21. “That includes renegotiating NAFTA to get a much better deal for America—and we’ll walk away if we don’t get that kind of a deal. Our country is going to start building and making things again.”

Trump also reminded the audience at the Republican convention that his rival’s husband had presided over the implementation of NAFTA, even though former President George H.W. Bush, a Republican, negotiated the agreement (SourceMex, Aug. 12, 1992). “It was Bill Clinton who signed NAFTA, one of the worst economic deals ever made by our country or frankly any other country,” Trump said.

‘A blow for Mexico’

The prospect that Trump would greatly alter NAFTA or scrap the accord altogether has created significant concern in Mexico. “This would represent a significant blow for Mexico, considering that our country’s total trade with the US on a single day is much greater than its trade with the rest of Latin America during one year,” said Gonzalo Abad Frías, a trade specialist at Universidad Iberoamericana in Mexico City.

Even though commercial exchanges of goods and services would be affected directly, the biggest impact of scrapping NAFTA would be on investments. According to the economy ministry (Secretaría de Economía, SE), more than 45% of the foreign direct investment in Mexico since 1999 has come from the US. A loss of investment would especially hurt the agriculture, automotive,
energy, aerospace, and pharmaceutical industries. The overall negative impact would be most significant on motor vehicle production; the automotive industry sent more than 60% of its output to the US in January-May 2016, according to statistics from the Asociación Mexicana de la Industria Automotriz (AMIA).

“Foreign companies view Mexico and NAFTA as a gateway to the US market,” said Alfonso Laborde, an expert on international relations at Tecnológico de Monterrey.

“Mexico owes the expansion of its trade and economic sector to NAFTA, and any effort to modify the agreement would represent a significant blow,” Marco Antonio Gómez Lovera, an economist and Mexico expert at Universidad Panamericana in Mexico City, wrote in a guest column in the daily newspaper Excélsior.

According to trade specialists, NAFTA has helped Mexico boost its agriculture exports to the US and globally by about 565% since 1993.

Changes in NAFTA could also create legal uncertainties for enterprises in Mexico and the US that are involved in cross-border trade. According Abad Frías, these companies have been operating under a set of norms created by NAFTA for 22 years.

However, Gómez Lovera said a more palpable and immediate concern for Mexico is Trump’s tough discourse on immigration and his proposal to expand and strengthen the wall that runs along the US-Mexico border. “As Mexicans, we should be worried by Trump’s discourse, because his demagogic and xenophobic policies are just one step away from becoming reality,” he said.

‘Modernizing NAFTA’

Responding to Trump’s threat to modify or scrap NAFTA, Mexican President Enrique Peña Nieto acknowledged that the time has come for the three member countries to examine the accord to determine where changes could be made. “This is a model that still promises significant benefits for our country because it allows for the [economic] consolidation of the North American region,” Peña Nieto said during a press conference held on July 22 in Washington, where he met with US President Barack Obama. “After more than 20 years, the conditions are there to modernize the agreement to make it work better for all of us.”

Peña Nieto has said that his administration would hold a frank and open meeting with the winner of the US election. However, he said his government would not interfere in any way with the electoral process. “Whoever wins will find a country and a government with a constructive and open position,” the he told reporters.

While the elimination of NAFTA would hurt the Mexican and Canadian economies, some experts believe the US would suffer the most. According to Eduardo Rosales, an expert on international relations at Universidad Nacional Autónoma de México (UNAM), 40% of US manufactured products use Mexican components, which suddenly could become more expensive. US companies also invest in Mexico to take advantage of the cheaper skilled labor in Mexico, he said.

According to the Rosales, the US states that would suffer the most from the elimination or weakening of NAFTA are Arizona, California, Louisiana, New Mexico, and Texas, all states that have a strong commercial relationship with Mexico.
Withdrawing from NAFTA would not be difficult. Its Article 2205 allows a country to leave the agreement six months after providing written notice of withdrawal to the other parties. “As a matter of international law, then, there is no problem,” said the legal affairs website Opinio Juris.

The website pointed out that unlike a new agreement, which requires the ratification of the US Senate, the president would have discretion to withdraw from the accord without the consent of Congress.

“It seems most likely that this is solely the president’s call, since NAFTA is an executive agreement and not a treaty (and even if it were a treaty, the president probably could withdraw under his own authority),” Opinio Juris said in 2008, amid speculation at the time that Obama might push to renegotiate or withdraw from the agreement (SourceMex, March 12, 2008, and Dec. 10, 2008). “But it does seem odd that the president has such broad unilateral authority on a matter on which Congress has spoken with such excruciating detail. Will critics of executive power protest such unilateral executive action by President Obama?”

Even if the US were to withdraw, the agreement would remain in place for the two other partners. “Mexico and Canada would continue to adhere to the accord,” Abad Frías said.

Economy Secretary Ildefonso Guajardo warned that any efforts to turn back the economic integration of North America would make the region weaker in relation to other countries. “North America must remain strong, consolidated and allied, not only in regard to its economic strategy, but also in terms of security policies,” Guajardo said in an address to the Canadian Chamber of Commerce in May.

The TPP and the Democrats

The question of the TPP has also become a contentious topic on the campaign trail. Both the Republican and Democratic candidates have announced their opposition to the project. Trump has openly opposed the agreement and has pledged to withdraw the US from the TPP if Congress were to ratify it during a lame-duck session after the election, as has been speculated. His position has put him at odds with the US Chamber of Commerce and other US business interests, which are lobbying Congress heavily to ratify the agreement.

On the Democratic side, supporters of Sen. Bernie Sanders, who competed for the party’s presidential nomination, are questioning the sincerity of Clinton, who once praised the proposed agreement lavishly. “This TPP sets the gold standard in trade agreements to open free, transparent, fair trade, the kind of environment that has the rule of law, and a level playing field,” Clinton, said during a speech in Australia in 2012, when she was secretary of state. “And when negotiated, this agreement will cover 40% of the world’s total trade and build in strong protections for workers and the environment.”

Clinton changed her mind during the electoral campaign. During a debate with Sanders in February 2016, just days after the agreement was negotiated by the US and 11 other countries, Clinton said she no longer supported the TPP. “It was just finally negotiated last week, and in looking at it, it didn’t meet my standards—my standards for more new, good jobs for Americans, for raising wages for Americans,” Clinton said. “And I want to make sure that I can look into the eyes of any middle-class American and say, ‘This will help raise your wages.’ And I concluded I could not.”

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The problem for Clinton is that her position puts her in conflict with Obama, who has come out strongly in favor of the agreement. The committee writing the Democratic Party platform voted not to include language opposing the TPP in order not to undercut Obama’s efforts to gain approval for the agreement in Congress. The absence of language explicitly opposing the TPP angered Sanders’ supporters, who made their displeasure known at the Democratic National Convention on July 25-28. “Loudly and angrily chanting ‘No TPP,’ Sanders supporters drowned out Democratic National Convention platform chair Elijah Cummings (D-MD) as he spoke on Monday night about the platform that he and many Democrats call the most progressive in history,” said the website ThinkProgress.

Obama, Peña Nieto, and Canadian Prime Minister Justin Trudeau view the TPP as a way to enhance NAFTA. At a meeting in Ottawa in late June, the three leaders issued a statement saying that the TPP would help create jobs and strengthen industrial and agricultural production while protecting labor rights and the environment. The three leaders said the agreement would help bring new and emerging technologies to various sectors of their economy, allowing the US, Canada, and Mexico to compete at the global level.

Mexico has moved the farthest on the ratification process, with Economy Secretary Guajardo sending the text of the agreement to the Mexican Senate in April. Guajardo has said the appropriate committees will review the document and hold debates during the legislative period that begins in September. “We would have a vote before the end of the year, if that is what the Senate decides,” he said.

The prospects are less certain in the US, with Obama hoping that the US Congress votes on the issue during the “lame duck” session after the November elections and before the end of the year. “Whether that is wishful thinking or a real prospect will have to come into focus well before November, because supporters would likely need to begin congressional hearings in September to clear the path for a vote in the lame-duck session of Congress,” said The New York Times.

“The future of the TPP depends on the US,” columnist Maricarmen Cortés wrote in the Mexico City daily newspaper Excélsior. “Even if the 11 other countries succeed in the ratification process, a clause in the accord requires final approval by countries that represent 40% of trans-Pacific commerce. This percentage would not be reached without the participation of the US.”

In Canada, a vote is also not certain, particularly since the agreement contains provisions that could undermine the country’s relatively low-cost medication structure. “By requiring all countries in the trade agreement to grant patents for minor innovations to existing drugs, the threshold of innovativeness in the pharmaceutical industry is lowered,” said the daily newspaper Toronto Star. “As a result, firms can extend the protection on certain medications, delaying the production of generic drugs and keeping prices high.”

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