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THE ARCTIC REPORT EXCLUSIVE: A LOOK AT NAFTA RENEGOTIATION

WASHINGTON, D.C.

For years, Arctic industry leaders, policymakers, and international organizations have eagerly promoted the future of international trade in the Arctic. The now annual breaking of global heat records suggests an ice-free Arctic may come sooner than expected. Open shipping routes through the Northwest Passage and the Northern Sea Route would make Arctic shipping, which was once a dream, a reality.

Stacy Ettinger, Partner at K&L Gates, has extensive experience in international trade policy and trade negotiations. She provides the following summary of the NAFTA renegotiation process.

Benefits of NAFTA

Negotiated 25 years ago, NAFTA was the most comprehensive free trade agreement at the time. With a few exceptions, tariffs on goods produced and traded within North America were reduced to zero. Barriers to investment were eliminated. And service

providers were generally free to operate throughout the North American market. The resulting economic integration between the United States, Mexico and Canada is extensive. Canada is the leading market for U.S. exports, and Mexico is the United States' second largest export market. The largest categories of traded goods include automobiles and parts, petroleum products, and industrial machinery and equipment. In 2016, trade between Alaska and Canada surpassed \$1 billion; trade between Alaska and Mexico was over \$64 million.

NAFTA Negotiations Are Underway

Officials from United States, Canada and Mexico met in Washington DC August 16-20 to begin negotiations to modernize NAFTA. The second negotiating session is scheduled for September 1-5 in Mexico City. The three countries have set an ambitious negotiating schedule, with a plan to hold a total of seven rounds of talks before the end of the year. The following is a brief discussion of the schedule



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for NAFTA renegotiation, key issues likely to be on the negotiating agenda, and the economic relationship between the United States and its NAFTA partners.

Renegotiation Schedule

With elections scheduled in the United States and Mexico in 2018, the NAFTA renegotiation process will be a political liability if it drags on too long. The plan, therefore, is to finalize an agreement before the end of the year. With input from businesses and other stakeholders, negotiators are planning to table text on all issues by the end of September. After negotiations wrap up and the Agreement signed, the House and Senate will need to vote on, and the President will need to sign legislation implementing the Agreement. Mexico and Canada also will need to vote to implement per their domestic legal requirements, before a new, “modernized” NAFTA takes effect.

Issues on the Agenda

All three countries go into NAFTA modernization negotiations with their own objectives. Key issues include the following:

- **Tightening Rules of Origin.** The United States is looking to “update and strengthen” the rules of origin “to ensure that the benefits of NAFTA go to products genuinely made in the United States and North America.” This suggests raising the North American content requirement for goods to qualify for duty-free treatment. Parts and inputs sold

between the NAFTA partners that previously qualified for duty-free treatment could become subject to tariffs. While U.S. import duties generally are relatively minimal, the same cannot be said for Mexican and Canadian import duties. Given the extensive reliance on integrated cross-border supply chains, the additional duties could drive manufacturers to rethink their sourcing strategies and consider suppliers outside the NAFTA region. Global and domestic automakers are against “strengthening” NAFTA rules of origin because that would make the U.S. auto and manufacturing sectors less competitive worldwide. Unions support increasing the North American content requirement.

- **Energy Production and Transmission.** Canada and the United States greatly expanded their bilateral energy trade under NAFTA. Mexico is in the process of opening its oil, gas and power sectors and is looking to incorporate provisions in NAFTA to ensure its energy industries are included in regional energy trade.
- **Eliminating Red Tape.** The United States, Canada and Mexico will likely find common ground on proposals regarding regulatory and customs processes that would reduce bureaucratic delays and “red tape.”



Given the magnitude and frequency of cross-border transactions between NAFTA partners, any agreement on modernization, simplification and harmonization of customs procedures and processes would result in significant cost savings, particularly for small and medium-sized businesses. Encouraging regulatory cooperation as a way to improve transparency and regulatory compatibility would likely have similar benefits.

- **New Rules for Digital Trade.** The United States, Canada and Mexico also have mutual interest in establishment of strong rules promoting and protecting e-commerce and digital trade. The NAFTA countries agreed to such rules, including prohibiting customs duties on digital goods and services, as part of the TPP (Trans-Pacific Partnership) negotiations. Digital trade was in its infancy when NAFTA was negotiated, and there is support among the three countries to address this issue in the ongoing NAFTA modernization efforts.
- **Market Access for Agricultural Goods.** NAFTA has been very beneficial for cross-border trade in agricultural goods. However, certain products continue to be a source of serious friction between Canada and the United States, including dairy and

lumber. Expect both countries to stand their ground to protect sensitive agricultural industries.

Engage with Government Officials

The issues discussed above are just some of the items on the NAFTA renegotiation agenda. NAFTA modernization efforts are on the fast track, and now is the time to engage with government officials to ensure negotiating text reflects business and industry interests.

For more information

Ms. Ettinger is available to further discuss Arctic trade or other commercial matters and may be reached at stacy.ettinger@klgates.com. This information is exclusive to the subscribers of The Arctic Report, a service of the North Star Group. For more information on how you can connect with expertise to assist with your Arctic endeavors, contact Veronica Slajer and the North Star Group team at vaslajer@northstargrp.com.

