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NAFTA renegotiation.
Some of Mexico's challenges
in the face of a new Agreement.
by Andrés Angulo

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"DILIGITE JUSTITIAM QUI JUDICATIS TERRAM." "Ye who judge the earth, give diligent love to justice"

NAFTA renegotiation.

Some of Mexico's challenges in the face of a new Agreement.

by Andrés Angulo

If one thing is constant about Mexico's public policy, regardless of the subject, is its reactive and not proactive agenda. Days before the start of the renegotiating rounds of the North American Free Trade Agreement ("NAFTA", the "Agreement"), Mexico's Ministry of Economy, Idelfonso Guajardo Villareal, made public appearances in which he claimed to have a well-defined strategy to face President Trump's ambitious objectives for the renegotiation of the Agreement, not to mention an "experienced" and "knowledgeable" team that will "[...] safeguard Mexico's interests." Yet days before the start of the (renegotiating) rounds, his so-called strategy remained unknown to the public raising doubts and concerns about Mexico's preparedness to face his neighbor.

"The subject at hand is one that covers many issues. However, this article will focus in one of them: Major challenges that Mexico could face in the renegotiations rounds of the NAFTA and the struggle to implement a new Agreement that favors only its northern neighbor. Focusing in this issue will seek to provide a realistic approach of how things will most likely go down in Mexico, and how this may or may not benefit or affect trade exchanges".

On the other hand, the Office of the United States Trade Representative ("USTR"), from the Executive Office of the newly elected president: Donald Trump ("Trump"), revealed a document on July 17, 2017 named: "Summary of Objectives for the NAFTA Renegotiation"¹. Throughout its seventeen pages it outlines the US' perspective of how, after 23 years of the NAFTA, the treaty should work to benefit the United States. Trump, and his administration, believe that "Since the deal (NAFTA) came into force in 1994, trade deficits have exploded, thousands of factories have closed, and millions of Americans have found themselves stranded, no longer able to utilize the skills for which they had been trained". The document, in its majority, comes up with conclusions as the one before, yet no evidence is provided to show the correlation of how the NAFTA has caused the deficit Trump is attributing to it. What's even more worrying is that this is the main driver behind US intentions to renegotiate the Agreement.

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On the risk of implementing managed trade practices

The term "managed trade" can be defined as imposing new restrictions in the form of stronger quotas over trade. Trump claims the NAFTA is responsible for the offshoring of many jobs that used to be domestic and a decrease in consumption of "American Goods". As a response to this, in his renegotiation objectives he threatens to increase quotas and duties over sensitive agricultural commodities and by doing this ensuring that people will "buy American again".

This will most likely be a heated topic in the negotiating rounds. Guajardo in both his appearances before the Commission of Foreign Relations from the Senate on August 8, 2017 and a document named "Mexico's Priorities in the Negotiation Rounds to Modernize NAFTA"², has stated that any form of increase in duties and managed trade will be rejected by Mexico.

1.- Office of the United States Trade Representative (July 17, 2017); Summary of Objectives for the NAFTA Renegotiation. <https://ustr.gov/sites/default/files/files/Press/Releases/NAFTAObjectives.pdf>

2.- Senado de la República; (July 31, 2017); Prioridades de México en las Negociaciones para la Modernización del Tratado de Libre Comercio de América del Norte. http://www.senado.gob.mx/sgsp/gaceta/63/2/2017-08-01-1/assets/documentos/PRIORIDADES_MEXICO_NEGOCIACIONES%20PARA%20MODERNIZAR_TLC.pdf

In the eyes of both Mexico and Canada, the renegotiating rounds of the NAFTA are understood as a way of modernizing the treaty, not going against its main trade liberalizing objectives. Going back to a managed trade scenario will cause a dent in the Mexican Economy, highly dependent on trade with the NAFTA countries, and not as inclusive of his Latin American neighbors with whom no substantial form of free trade agreement has yet been achieved.

On forcing an increase of wages in Mexico

For Trump, modernizing the NAFTA is not only adding chapters to include ecommerce regulations. In his eyes, a new Agreement would imply eliminating any form of cost advantage scenarios that trigger manufacturing sources out of the US and into Mexico. It's a known fact that, since the Agreement came into force, companies from both the US and Canada, have migrated their manufacturing to the south to ensure a benefit to their pockets nourished by employee's low wages. In Trump's renegotiating objectives, new labor rules are of essence. By forcing low wages in Mexico to increase, Trump seeks to eradicate this cost advantage situation and lure companies to stay within their borders or come back. Thus, increasing the amount of jobs offered to their nationals and allowing the US government to collect taxes from companies operating in their territory.³

The ambivalence of this objective makes it difficult to determine whether it would cause a benefit or affect the Mexican Economy. Firstly, increasing wages of the labor force would have to be enforced nationally, as any other form of treatment could be considered discriminatory and potentially raise claims before the Antitrust Authority (COFECE, for its acronym in Spanish). As a result, all companies operating within Mexico, regardless of whether they get involved in the value change of trade through NAFTA, will be obligated to increase wages and handle the effect this may cause in their operating costs.

Secondly, it may seem as if there were a benefited party: the employees. Mexican population working in manufacturing industry in Mexico's border have a long history of economic struggle. An increase in wages, could signify access to a better lifestyle, at the cost of their employer of course. The downside however, is that offshore companies who cease to benefit from low wages might consider closing their offshore branches and return to their home country, who is now even offering tax incentives if they were to return.⁴ In the end, an increase may not even have a positive effect in the Mexican Economy which raises the question of whether this objective is oriented to modernize the Agreement or is seeking to meet Trump's nationalistic campaign.

Finally, there is an issue of international relevance. Mexico agreed to a minimum wage regulation as a result of the Trans-Pacific Partnership and any action against it may be considered as a breach of what was agreed, putting Mexico in the risk of a potential international sanction.⁵

On the political context

Both Mexico and the US are facing elections in 2018. This has accelerated the pace and urgency with which these two parties are seeking to review the Agreement. For all the parties participating in NAFTA negotiations, the fear of Andres Manuel Lopez Obrador getting elected has motivated them into solving issues as quickly as possible, yet the one having the biggest leverage in this deal will be the most benefited from a fast-paced review. Unfortunately, Mexico holds a weaker leverage in the negotiation, so it seems. The risk of losing trade relationships with his norther neighbor, would highly impact its economy, and this may lead it into yielding to US terms.

Although a separate political context should not have a say in trade negotiations, in this case it may act as a catalyst to resume the negotiating rounds rapidly in lieu of avoiding the Agreement falling into the hands of a man touted as a socialist by many sectors of public society. This same person has publicly declared that Trump has directly attacked Mexico which, most likely lead to him rejecting any form of amicable negotiation of the Agreement.

3.- Office of the United States Trade Representative (July 17, 2017); Summary of Objectives for the NAFTA Renegotiation. <https://ustr.gov/sites/default/files/files/Press/Releases/NAFTAObjectives.pdf>

4.- Gillespie, Patrick. (April 28, 2017). A new NAFTA deal could bring jobs back - at a cost to Americans. <http://money.cnn.com/2017/04/28/news/economy/trump-nafta-what-a-better-deal-looks-like/index.html>

5.- Quinn, Greg. (August 7, 2017). A Nafta Win for Trump May Rest on Helping Mexican Workers Get a Raise. <https://www.bloomberg.com/news/articles/2017-08-07/trump-nafta-win-may-rest-on-helping-mexican-workers-get-a-raise>

On anticorruption practices, transparency, and state-owned controlled enterprises.

According to the USTR, the new NAFTA, contrary to its predecessor, should break down barriers to American exports. For the USTR, and Trump as well, these barriers include unfair subsidies, market-distorting practices by state-owned enterprises, and lack of transparency and government accountability. Although not done directly, these accusations are most likely intended for Mexico. Not only in the current government but in former ones as well, issues with state-owned enterprises have been internationally known, it should come to no surprise then that to have a more effective agreement, the rest of the trading partners should be entitled to ask for this to be deterred and, ideally, eradicated.

This however, poses a great degree of pressure over Mexico. Dealing with the bureaucracy behind state-owned companies and their power to affect trade, will not be a simple task. The energetic reform considered this issue and is now reducing the amount of control state-owned companies used to have over this sector. It seems this has not been enough, the USTR is considering they still hold sufficient power to deny reciprocal market access to American companies, without allowing them to play in a more equitable, open and secure environment. Unfortunately, Mexico has not yet implemented a way to systematically reduce State's participation in the main sectors of its tradable infrastructure, so the lack of a plan to guide this path may result in a more aggressive negotiation led the US, who has clearly stated that *the new NAFTA will promote a market system that functions more efficiently leading to reciprocal and balanced trade among the parties*. The question is what would happen if these goals are not met?

Regarding Transparency, the USTR is looking to elevate levels of transparency, participation, and accountability from his other 2 trading partners in the development of regulations and government decisions.⁶ Their ambitious request obliges Mexico and Canada to have regulations comparable to US federal regulations and statues. Speaking for Mexico, this highly unlikely to happen. It's civil law system and ineffective and burdensome process to reform laws, although ideal, could not rapidly evolve to meet US standards in matters of transparency and accountability. There is a significant number of examples were Mexico has tried and failed to reform its laws and regulations to meet the levels of international agreements. Mainly because while laws are seeking to be more efficient, the process itself is polluted by political discourse which impedes the regulations to be amended as agreed. Not to mention how reform proposals go back and forth between both chambers of Congress (Deputies and Senators), raising questions about who is competent to review what instead of focusing on the merits.

Finally, the USTR has requested each party to the Agreement to secure provisions to not only punish but criminalize government corruption.⁷ These provisions should focus on both the companies, to ensure they maintain accurate books and records and in so doing make it easier to detect corrupt payments, and the government, by keeping a vigilant eye over deductions of corrupt payments for income tax purposes. The current Mexican government has done a great deal to prevent corruption. New administrative offices have been opened and have identified various public officers who apparently have been responsible for committing acts of corruption.⁸ Yet, the main executive branches of both local and federal government, although accused in several occasions with sufficient evidence shown to the public, seem to be facing lax prosecutions. Therefore, this effort can be translated in another administrative and bureaucratic way of trying to prevent government corruption by complicating procedures for users, rather than solving the issue internally. In fact, what it has done is slow down the whole administrative branch of government, which now must comply with numerous filters and abide to even more regulations. Once again, this might be a complicated issue Mexico will have to face during the negotiations, as several accusations could be brought before it and answers on how these will be resolved may pave the way of the new Agreement.

The latter are but a few of the most important things to be looked out during the negotiations, but most importantly on what the future holds for the Agreement and Mexico. NAFTA's review may seem innovative, but for reasons stated above and the political agenda shown by US' new government so far, it seems as if they are trying to shift the benefits of trade promoted by NAFTA to satisfy individual needs, rather than promoting a better relationship among all three partners.

6.- Office of the United States Trade Representative (July 17, 2017); Summary of Objectives for the NAFTA Renegotiation. <https://ustr.gov/sites/default/files/files/Press/Releases/NAFTAObjectives.pdf>

7.- Ídem.

8.- Hecker, Sean; Levine, Andrew M; Zelek, Eileen (November 8, 2016); Mexico's Anti-Corruption Reform Could be a Game Changer. <https://www.law360.com/articles/860941/mexico-s-anti-corruption-reform-could-be-game-changer>

Cemex to supply Mexico City's New International Airport.

Cemex expects to supply approximately 900,000m³ of concrete for Mexico City's New International Airport. "We are very proud to participate in one of the most important infrastructure projects in Latin America," said Juan Romero Torres, president of Cemex Mexico. "Mexico City's New International Airport will improve the quality of life for millions of people and strengthen the city's position as a hemispheric hub connecting the Americas." The airport will be built in two phases, beginning with three runways and adding three later. Its maximum capacity will be 120m passengers per year. The first terminal will be "X" shaped, with a total capacity of 68m passengers. Because of the condition of the ground on which the airport is built – the bed of former Texcoco Lake – Cemex will supply a special mix of high-sulphate-resistant concrete. Resistance to sulphates can be significantly improved by producing a dense, impermeable concrete which is obtained by utilising very resistant cement with a low cement-to-water ratio. With over 110 years of experience in the industry, Cemex offers the most advanced concrete technology on the market. Cemex has participated on other major infrastructure projects in Mexico, such as the Baluarte Bicentenario Bridge in the northwestern state of Durango and the La Yesca Dam in the northwestern state of Nayarit; as well as other noteworthy international projects, such as the Panama Canal, Malaysia's Mass Rapid Transit system, and a tidal barrage and hydroelectric plant on Egypt's Nile River. <https://www.cemnet.com/News/story/162308/cemex-to-supply-mexico-city-s-new-international-airport.html> 17/08/2017.

Great American Eclipse: Why Nasa Chased the total solar eclipse with jet planes.

NASA is preparing to study the total solar eclipse on Monday by chasing the path of totality with jet planes. By doing so, the space agency should be able to capture the clearest ever image of the sun's outer atmosphere—its corona. The corona is like a fiery shell of plasma that surrounds the sun, reaching temperatures of over 1 million degrees Celsius. It is the place where solar winds and coronal mass ejections come from, both of which have the potential to affect Earth. A large CME, for example, could knock out communications satellites and power grids, with one U.S. government report indicating it could cause up to \$2 trillion worth of damage. However, our understanding of the sun's corona is limited. Compared with the sun, it is very dim, so when scientists try to look at it, it is obscured by the brightness of the sun's surface. During a solar eclipse, however, this all changes. With the sun's light blocked out, researchers can look at the corona in far more detail. <http://www.newsweek.com/nasa-jets-total-solar-eclipse-sun-corona-652115> 18/08/2017.

How much will hurricane harvey cost?

Hurricane Harvey is now estimated to be among the costliest storms in U.S. history. Its price tag has multiplied to tens of billions of dollars as rain from the remaining tropical storm continues to pelt the flooded Texas city of Houston and parts of Louisiana. Uncontrolled spillovers from Houston's Addicks Dam will likely release millions of gallons of water Tuesday and raise floodwaters even higher in the city's western suburbs. The storm has lifted roofs and decimated thousands of homes and commercial properties. As the storm hit last Friday, asset management company William Blair & Co. calculated that it could lead to \$25 billion in insurance costs if it landed as a "large Category 3 hurricane." It landed as a Category 4. <http://www.newsweek.com/how-much-will-hurricane-harvey-cost-656333> 29/08/2017.

Brexit threatens product availability.

The availability of affordable and quality products is at risk without additional agreements and investment to supplement a customs deal, according to a new BRC report. Top priorities for hauliers post-Brexit BRC, the trade association for the retail market, said that while the government's position paper "rightly acknowledges the need for a strong customs agreement", it hasn't yet addressed the "significant investment required in the UK's ports, roads and infrastructure to get systems ready for Brexit day and thereafter" or the "suite of new agreements supplementing customs that are necessary to side-step additional red tape at ports and docks and prevent delays to goods." <http://www.logisticsmanager.com/brexit-threatens-product-availability/> 30/08/2017.

Trump hits road to tout tax reform as helping workers.

With his domestic policy agenda stalled amid Republican infighting and his approval rating at just 35 percent, Trump will make his first presidential speech specifically on tax policy, an issue on he has been promising results for months. Tax reform was a major campaign promise for Trump and his Republican allies in Congress last year. But the effort has been hamstrung by repeated delays and political distractions since Trump took office in January. The speech is unlikely to provide new details about a tax plan Trump's aides and Republican leaders in Congress are trying to hammer out in closed-door meetings in Washington. <https://www.cnbc.com/2017/08/30/trump-hits-road-to-tout-tax-reform-as-helping-workers.html> 30/08/2017.

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