

## Trump and Trade Updates – May 2017

### Trump Announces Creation of Office of Trade and Manufacturing Policy

**5/1/17** – On April 29, 2017, President Trump signed an [executive order](#) creating the Office of Trade and Manufacturing Policy (OTMP) within the White House. Peter Navarro, who was previously named to head the White House’s National Trade Council which was never formally established, will lead the office. OTMP’s stated mission is “to defend and serve American workers and domestic manufacturers while advising the President on policies to increase economic growth, decrease the trade deficit, and strengthen the United States manufacturing and defense industrial bases.” It will serve as a liaison between the White House and the Department of Commerce and undertake trade-related special projects as requested by the president.

### Trump Issues Executive Order Directing USTR and Secretary of Commerce to Review Trade Agreement Violations and Abuses

**5/1/17** – On April 29, 2017, his 100th day in office, President Trump announced an [executive order](#) directing the U.S. trade representative (USTR) and secretary of the Department of Commerce to commence a review of “all bilateral, plurilateral, and multilateral trade agreements and investment agreements to which the United States is a party” and “all trade relations with countries governed by the rules of the World Trade Organization (WTO) with which the United States does not have free trade agreements but with which the United States runs significant trade deficits in goods.” In a press briefing, Secretary of Commerce Wilbur Ross clarified that this executive order differs from others previously signed by the president in that it will focus “more narrowly on the agreements themselves,” even those that do not result in deficits, and not on the behavior of individual countries.

The review of each agreement must be submitted to the president within 180 days (late October 2017) and identify violations or abuses of any U.S. trade agreement, including the WTO, as well as any trade preference programs and investment agreements. The review will identify trade agreements and programs that “have failed with regard to such factors as predicted new jobs created, favorable effects on the trade balance, expanded market access, lowered trade barriers, or increased United States exports.”

In signing the executive order, President Trump has authorized the secretary of Commerce, the USTR and other heads of executive departments and agencies to “take every appropriate and lawful action to address violations of trade law, abuses of trade law, or instances of unfair treatment.”

While Secretary Ross made clear that the review would cover all trade agreements, the United States has only 20 such agreements and much U.S. trade occurs with countries who are members of the WTO. He stated that the WTO has “a ‘most favored nation clause,’ meaning that of all the countries with whom we do not have a free-trade agreement, we must charge the same tariff on the same item to those – each of those countries as we charge to the others. So that’s a significant impediment toward getting to anything like a reciprocal agreement.” He also criticized the WTO agreement for not effectively dealing with non-tariff trade barriers and intellectual property rights, as well as claiming there were certain structural problems with the agreement, especially the dispute settlement provisions. When asked if the United States would consider withdrawing from the WTO, Ross replied that, while the review has not yet begun, “as [with] any multilateral organization, there’s always the potential for modifying the rules of it.”

### NAFTA Status Report

**5/10/17** – President Trump emphasized international trade throughout his campaign and has made it a major issue since taking office in January. Many of his executive orders and press statements have focused on broad trade issues, such as directing his administration to review trade agreement violations and abuses, to undertake an analysis on trade deficits, and to implement his “Buy American, Hire American” strategy. Trump has also taken specific trade actions, such as withdrawing the United States

from the Trans-Pacific Partnership on the first day of his presidency and determining that China is not a currency manipulator. One major campaign trade issue/promise, however, remains unresolved at the 100-day mark of the Trump presidency: the status of the North American Free Trade Agreement (NAFTA).

Trump has been critical of NAFTA, but his intentions have varied from vowing outright withdrawal to identifying key provisions that must be renegotiated to stating that the 25-year-old agreement needs to be completely revised and updated. While discussions on NAFTA among the leaders of Canada, Mexico and the United States have occurred, no formal actions have been taken yet. Many questions remain, and Trump administration officials at times offer conflicting statements pertaining to the trade agreement. For our readers, we have prepared a [status report \(PDF\)](#) regarding NAFTA.

### **Canada and Mexico File Comments in Response to Executive Order Regarding Omnibus Report on Significant Trade Deficits**

**5/11/17** – In response to President Trump’s Executive Order 13786 requiring that the secretary of Commerce prepare and submit a report that examines the causes of trade deficits, the governments of Canada and Mexico have filed formal comments with the Department of Commerce ahead of the public hearing to be held on May 18, 2017.

While [Mexico’s formal report](#) is detailed, it notes:

The US trade deficit with Mexico is explained mainly by the way North American value chains are integrated. Mexico is the main supplier for many US industries, and this supplier relationship naturally creates trade deficits. Imports from Mexico enable US manufacturers to remain competitive in global markets, enhancing their ability to export to other countries and to provide American consumers with high quality goods at more competitive prices. The Mexican-US partnership strengthens both countries’ position in global markets and enhances our regional competitiveness to the benefit of workers, consumers and producers on both sides of the border.

The comments also note the strong ties and regional supply chains created under the North American Free Trade Agreement (NAFTA), and that “American manufacturing jobs depend on Mexican manufacturing jobs and vice-versa, since workers on both sides of the border work together in the production of goods to successfully compete in global markets.”

[Canada’s formal report](#) highlights the fact that the United States normally has a trade surplus with Canada and that “[o]ur trade is characterized by a high level of integrated production, with companies on both sides of the border using inputs from the other.” Further, the comments note that the U.S. relies on imports of Canadian raw materials and intermediate goods that ensure the competitiveness of U.S. manufactured products, and that the two countries have long cooperated to reduce impediments to trade.

To review other comments submitted for the record, visit [www.regulations.gov](http://www.regulations.gov) and search for Docket ID: ITA-2017-0003; International Trade Administration.

### **Senate Confirms Robert Lighthizer as U.S. Trade Representative**

**5/11/17** – After months of delays and requiring a waiver allowing him to serve as the U.S. trade representative (USTR), Robert Lighthizer was finally confirmed by the Senate on a vote of 82-14. The delays in this vote were for a multitude of reasons. First and foremost, a section of the Trade Act of 1974 excludes anyone who has “directly represented, aided or advised a foreign entity ... in any trade negotiation, or trade dispute” from serving as USTR. Lighthizer had represented Brazilian and Chinese entities in past trade disputes. Senate Democrats also delayed action on his confirmation by demanding concessions to address a shortfall in pension funding for miners. More recently, several Republican senators, including Sen. Jon McCain, questioned Lighthizer’s position on agricultural trade and his stance

on the North American Free Trade Agreement. Lighthizer was a deputy USTR during the Reagan administration and has been representing U.S. corporations for the last three decades in international trade remedy litigation as a partner at the law firm Skadden, Arps, Slate, Meagher & Flom LLP.

### **U.S.-China 100-Day Plan Starts to Come into Focus**

**5/12/17** – As we previously reported on April 10, during the U.S. visit last month of China’s President Xi Jinping, the two countries established a new cabinet-level framework for negotiations – the United States-China Comprehensive Dialogue – and agreed to a 100-day action plan under this framework. On May 11, 2017, Secretary of Commerce Wilbur Ross announced that the two countries had agreed to address issues involving agricultural trade, financial services, investment and energy. As concrete progress is made under the 100-day plan, the parties, Secretary Ross indicated, will begin discussions on a one-year plan to further solidify actions promoting U.S.-China economic engagement and cooperation.

These initial actions are set forth in a [Department of Commerce press release](#) covering 10 key issues that should be accomplished by July 16, the conclusion of the 100-day period since the leaders met. Actions to be taken include consultations on U.S. beef exports to China, Chinese exports of cooked poultry to the United States, biotechnology issues, U.S. liquid natural gas exports to China, the operation of U.S. financial service firms in China, as well as other banking and market access issues. Secretary Ross acknowledged that these actions address only 10 items and that “there are probably 500 items we could potentially discuss ... So we’re going to do for the rest of the one-year plan another set of prioritization – what things can we reasonably accomplish within that period and then see if we can reach agreement.”

### **Lighthizer Sworn in as USTR**

**5/16/17** – On Monday, May 15, 2017, Robert Lighthizer was sworn in as the U.S. Trade Representative (USTR). In presiding over the ceremony, Vice President Pence stated that Lighthizer was “uniquely qualified” for the office and that in choosing Lighthizer, “President Trump is keeping his promise to put America first.” In his [brief remarks at the ceremony](#), Lighthizer commented that in the future, he believes that others will say “President Trump permanently reversed the dangerous trajectory of American trade, put America first, made our farmers, ranchers, and workers richer, and the country safer.” In [comments posted to the USTR website](#), Lighthizer added, “I’m honored for the opportunity to serve President Trump and Vice President Pence by working for fair and free trade that benefits all Americans. By expanding export market access through negotiating good trade deals and enforcing U.S. trade laws, we can raise wages and help level the playing field for American workers, farmers, ranchers, and job-creators.” USTR Lighthizer will have a busy first week in office with plans to meet with congressional leaders for a discussion on the North American Free Trade Agreement before leaving on his first official trip for an Asia-Pacific Economic Cooperation (APEC) trade ministers meeting.

### **Trump Administration Continues Waiver of Nuclear-Related Sanctions on Iran, Sanctions Iranian Officials for Ballistic Missile Program**

**5/18/17** – The Trump administration has [renewed a necessary waiver](#) regarding U.S. sanctions on Iran’s crude oil exports. This will allow Iran to continue to sell its oil in the international market despite existing U.S. sanctions that must be periodically waived under the terms of the 2015 nuclear deal with Iran.

The Treasury Department’s Office of Foreign Assets Control (OFAC), however, has placed two senior Iranian defense officials on OFAC’s Specially Designated Nationals (SDN) List for their involvement in Iran’s solid-fueled ballistic missile program. Morteza Farasatpour, a senior defense official with Iran’s Defense Industries Organization (DIO) and Rahim Ahmadi, a senior official serving as the Director of Iran’s Shahid Bakeri Industries Group (SBIG), along with Iran-based company Matin Sanat Nik Andishan, have been placed on the SDN List for activities in support of Iran’s ballistic missile program.

These actions were taken in conjunction with the State Department's release of its [semi-annual report to Congress](#) detailing sanctions imposed on persons responsible for or complicit in human rights abuses committed against citizens of Iran or their family members.

As a reminder to our readers, on Friday, May 19, Iran will hold its presidential vote that could also have a major impact on the status of the nuclear deal. Current President Hassan Rouhani, considered a moderate who oversaw the negotiation and implementation of the nuclear deal, is running for re-election. While he faces competition from several other candidates, his principal challenger is hardline conservative cleric Ebrahim Raisi.

### **USTR Formally Notifies Congress of Intent to Modernize NAFTA**

**5/18/17** – The Trump administration [formally notified Congress](#) of its intent to renegotiate the North American Free Trade Agreement (NAFTA) with Canada and Mexico, starting a 90-day clock for statutorily required consultations. This notification means that NAFTA negotiations with Canada and Mexico can begin no earlier than August 16, 2017. In the letter from U.S. Trade Representative Robert Lighthizer, the administration indicated it would consult closely with Congress to develop negotiating positions. The letter notes that while NAFTA was negotiated 25 years ago, the U.S. economy and businesses have changed, resulting in outdated provisions in the agreement. In particular, negotiations will include “new provisions to address intellectual property rights, regulatory practices, state-owned enterprises, services, customs procedures, sanitary and phytosanitary measures, labor, environment, and small and medium enterprises.”

In very brief comments, Lighthizer stated, “Today, President Trump fulfilled one of his key promises to the American people ... USTR will now continue consultations with Congress and American stakeholders to create an agreement that advances the interests of America’s workers, farmers, ranchers, and businesses.” The Office of the U.S. Trade Representative in the near future will publish a notice in the *Federal Register* requesting public input on the direction, focus and content of the NAFTA negotiations.

### **President Trump Declares Week of May 21, 2017 “World Trade Week”**

**5/22/17** – Stating that “trade is critical to the economic strength of our country,” President Trump has [proclaimed this week to be World Trade Week](#). In issuing this proclamation, the president stated that the United States will:

- promote economic growth by strengthening the manufacturing base and expanding exports in manufacturing, agriculture, and the service industries;
- challenge unfair trade practices that leave American workers, farmers, and businesses competing in global markets at a disadvantage;
- commit to breaking down trade barriers and opening new markets for American exports; and
- negotiate future trade agreements that ensure that all Americans reap the benefits of global commerce.

### **Iran’s President Hassan Rouhani Wins Re-Election**

**5/22/17** – Press reports have confirmed that Iran’s president Hassan Rouhani, a moderate who negotiated the joint nuclear deal and who has sought more positive relationships with western powers, won re-election over the hard-right conservative challenger, cleric Ebrahim Raisi. Rouhani reportedly received 57 percent of the vote to Raisi’s 38.5 percent, with the remaining votes split among other minor candidates. While this result is being viewed by many as a positive outcome for Iran’s ongoing efforts to engage with the rest of the world, it remains to be seen if Iran’s Supreme Leader Ayatollah Ali Khamenei,

who has final say over all state issues and limits the president's power, will limit any further efforts by Rouhani in this area. In response to the election results, U.S. Secretary of State Rex Tillerson stated:

“What we hope – what I would hope – is that Rouhani now has a new term, and that he use that term to begin a process of dismantling Iran’s network of terrorism, dismantling its financing of the terrorist network, dismantling of the manning and the logistics and everything that they provide to these destabilizing forces that exist in this region. That’s what we hope he does. We also hope that he puts an end to [Iran’s] ballistic missile testing. We also hope that he restores the rights of Iranians to freedom of speech, to freedom of organization, so that Iranians can live the life that they deserve. That’s what we hope this election will bring. I’m not going to comment on my expectation. But we hope that if Rouhani wanted to change Iran’s relationship with the rest of the world, those are the things he could do.”

## **U.S. Trade Representative Sets Public Hearing and Seeks Comment on NAFTA Renegotiation**

**5/23/17** – The Office of the U.S. Trade Representative (USTR) has published a [notice in the Federal Register](#) seeking public input on possible changes to the North American Free Trade Agreement (NAFTA) to inform the development of U.S. negotiating positions. A hearing to discuss those comments is scheduled for Tuesday, June 27, 2017. Written comments must be submitted by Monday, June 12, 2017 under docket number USTR-2017-0006 on [www.regulations.gov](http://www.regulations.gov) and include the heading “NAFTA Negotiations.”

To assist the Office of the USTR as it develops its negotiating objectives and positions for the agreement, the Trade Policy Staff Committee has requested the submission of comments on general and product-specific negotiating objectives for Canada and Mexico in the context of a NAFTA modernization, as well as the following more specific trade issues:

- Economic costs and benefits to U.S. producers and consumers of removal of any remaining tariffs and removal or reduction of non-tariff barriers on articles traded with Canada and Mexico.
- Treatment of specific goods (described by HTSUS numbers), including comments on:
  - Product-specific import or export interests or barriers,
  - Experience with particular measures that should be addressed in negotiations, and
  - Addressing any remaining tariffs on articles traded with Canada, including ways to address export priorities and import sensitivities related to Canada and Mexico in the context of the NAFTA.
- Customs and trade facilitation issues that should be addressed in the negotiations.
- Appropriate modifications to rules of origin or origin procedures for NAFTA qualifying goods.
- Any unwarranted sanitary and phytosanitary measures and technical barriers to trade imposed by Canada and Mexico that should be addressed in the negotiations.
- Relevant barriers to trade in services between the United States and Canada and Mexico that should be addressed in the negotiations.
- Relevant digital trade issues that should be addressed in the negotiations.
- Relevant trade-related intellectual property rights issues that should be addressed in the negotiations.
- Relevant investment issues that should be addressed in the negotiations.

- Relevant competition-related matters that should be addressed in the negotiations.
- Relevant government procurement issues that should be addressed in the negotiations.
- Relevant environmental issues that should be addressed in the negotiations.
- Relevant labor issues that should be addressed in the negotiations.
- Issues of particular relevance to small and medium-sized businesses that should be addressed in the negotiations.
- Relevant trade remedy issues that should be addressed in the negotiations.
- Relevant state-owned enterprise issues that should be addressed in the negotiations

Public versions of comments, with business confidential information redacted, will be open to public inspection.

### **Branstad Approved by Senate as U.S. Ambassador to China**

**5/23/17** – Iowa Governor Terry Branstad was confirmed by the Senate to be the U.S. ambassador to China by a vote of 82-13. Despite his long friendship with Chinese President Xi Jinping, Ambassador Branstad will likely face many challenges as the Trump administration continues to criticize China’s trade and economic policies. His diplomatic efforts will be further complicated by factions competing in the White House to wrest control over the country’s China policy.

### **Commerce Holds Public Hearing in Section 232 Steel Investigation; Ross Suggests Final Report Could Be Submitted to President in June**

**5/25/17** – On May 24, 2017, the Department of Commerce held a public hearing as part of its investigation under Section 232 of the Trade Expansion Act of 1962 into the impact of steel imports on national security (see [our previous update for more information](#)). In opening remarks, Commerce Secretary Wilbur Ross stated that the purpose of the investigation is to “determine if the steel being imported into this country impairs our national economic and military security” and that the key question is, “Does the problem rise to the level of crisis sufficient to warrant action beyond existing countervailing duty and antidumping cases?” Ross said the investigation will further seek to recommend what action(s) the president should take in response if the investigation concludes that steel imports are threatening to impair U.S. national security: “Should it cover all steel from everywhere? What do we do in terms of the 20+ percent of steel imports from our NAFTA partners? Should all products be covered? Is some sort of tariff rate quota appropriate? Or a more broadly based tariff? Are there products or countries that should be excluded? Is there some more innovative solution? If we go the tariff route, should it be broadly applied or a tariff schedule for groups of products?”

Under the Section 232 law, if the Commerce secretary determines that imports threaten to impair U.S. national security, the president will then have 90 days to decide whether to support that determination and to take any necessary action to adjust imports or take other non-trade-related actions to protect national security. While this investigation was only initiated in April 2017 and the Department of Commerce has 270 days to complete the investigation (i.e., by mid-January 2018), Ross indicated that he hopes to submit a report to Trump by the end of June.

The panel hearing the testimony yesterday consisted of officials from the Department of Commerce’s Bureau of Industry and Security (BIS), the International Trade Administration, the U.S. Geological Survey, the Department of Defense and the Defense Logistics Agency. Approximately 37 individuals and company officials testified at the hearing, including Rep. Marcy Kaptur (D-Ohio), Chinese and Russian government officials, U.S. steel industry representatives, the president of the United Steelworkers union, and representatives from various U.S. companies that rely heavily on steel in the manufacturing of their

products. While not yet available, the hearing transcript as well as submitted written hearing statements and other public comments will be posted on the [BIS Electronic FOIA web page](#). Written comments will be accepted until May 31, 2017 and should be submitted to Brad Botwin, Director, Industrial Studies, Office of Technology Evaluation, Bureau of Industry and Security, U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 1093, Washington, D.C. 20230 or by email to [Steel232@bis.doc.gov](mailto:Steel232@bis.doc.gov). For those who wish to view the nearly four-hour hearing, it is available [on YouTube](#).

### **CRS Issues Report on NAFTA as Renegotiation Approaches**

**5/30/17** – On May 24, 2017, the non-partisan Congressional Research Service (CRS) released a [report](#) on the North American Free Trade Agreement (NAFTA). In addition to providing a short history of the trade agreement and an overview of certain key provisions, this timely report provides insight into certain trade trends and the agreement's economic effects on the three member countries. The report also sets forth potential topics for any NAFTA renegotiation, including Automotive Sector; Services; E-Commerce, Data Flows and Data Localization; Intellectual Property Rights; State-Owned Enterprises; Investment; Dispute Settlement; Labor; Environment; Energy; Customs and Trade Facilitation; and Sanitary and Phytosanitary Standards.