

INTERNATIONAL TRADE PERSPECTIVE

Renegotiating NAFTA and Establishing Border Tax/Tariff



TEXAS TECH UNIVERSITY
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INTERNATIONAL PROGRAMS

Jorge A. Ramírez
Walter and Anne Huffman Professor of Law
Texas Tech University School of Law
Jorge.Ramirez@ttu.edu
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CAN PRESIDENT UNILATERALLY RENEGOTIATE NAFTA?

“LEGAL SIDEBAR” ISSUED BY CONGRESSIONAL RESEARCH SERVICE (1/26/17)

[HTTPS://FAS.ORG/SGP/CRS/MISC/RE-NAFTA.PDF](https://fas.org/sgp/crs/misc/re-nafta.pdf)

- Congress has power to regulate international commerce. (U.S. Constitution Art. I, §8, cl. 1)
- NAFTA and its implementing law contemplate limited changes to certain aspects by Executive w/o Congressional involvement . . .
- BUT major changes likely require Congressional assent.
- Historical precedence: When Congress approved NAFTA it had to act to suspend the prior U.S.-Canada Free Trade Agreement.
- If Congress involved, more opportunities to amend restrictive articles involving energy and petrochemical industries.



CAN PRESIDENT UNILATERALLY ESTABLISH BORDER TAX/TARIFF?

“PRESIDENTIAL AUTHORITY OVER TRADE: IMPOSING TARIFFS AND DUTIES,” CONGRESSIONAL RESEARCH SERVICE (12/9/16)
[HTTPS://FAS.ORG/SGP/CRS/MISC/R44707.PDF](https://fas.org/sgp/crs/misc/r44707.pdf)

- “Power To lay and collect Taxes, Duties, Imposts and Excises” resides with Congress (U.S. Constitution Art. I, §8, cl. 1).
- Congress can delegate to Executive, but only as agent of legislature.
- Cannot bestow law-making powers upon president. (i.e., must set limits or intelligible principles to be followed).
- Again, more easily said than done.



IMPACT IF BORDER TAX/TARIFF IMPOSED?

- Retaliation from Mexico on U.S. imports including GAS?
- Even if no retaliation, injury to U.S. consumers/investors.
 - Consumers pay more for Mexican goods, including those produced by U.S. investors in Mexico.
 - Continued devaluation of peso, making U.S. exports to Mexico more expensive.
 - Slow growth of Mexican manufacturing, particularly auto industry, which has created demand for cheap energy.
- No such thing as a Mexican-manufactured car.
 - U.S. sale of auto parts to Mexico ↑70% from 2010-15 (from \$17.5B to \$30B).
 - 53% of auto part imports into Mexico came from the U.S. in 2015.
 - Mexico has free trade agreements with more than 40 countries which provide access to U.S. auto part exporters.
- Continued viability of gas infrastructure build-out depends on continued growth of Mexican manufacturing.
- Trend of net migration from Mexico (*negative* every year since 2008, thanks to Mexican manufacturing growth) could be reversed.
- Continued cooperation with Mexico not only good for business, but good for national security.

