

Trumps N.A.F.T.A. promise a potential blessing for Canada

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It has been almost two weeks since Donald Trump was elected President of the United States of America. The election results have created a considerable amount of unease, both within the U.S. and abroad.

From our perspective as seen through the lens of the media, Trump's election campaign seemed to reflect a fire and brimstone approach to politics. Trump vowed to "build a wall" with Mexico to keep out illegal immigrants. He threatened to deport millions of undocumented immigrants from the U.S. He threatened to tear up N.A.F.T.A." – a trade agreement that he described as the worst trade deal in history.

And so the world now waits with baited breath to see which of Trump's election promises he will actually carry into effect once he takes office.

But in the short time since the election took place, there are already signs that Trump's approach to some of these issues is softening. Media outlets have reported that the threatened wall may actually be a fence, at least in some places. On an episode of 60 Minutes, Trump appeared to confine his deportation strategy to illegal immigrants who have a criminal record and particularly, ties to the drug trade. This seems to be a significant departure from his initial mass-deportation strategy.

The future of N.A.F.T.A., however, remains unclear and thus many Canadians continue to be uneasy about Trump's campaign promise on this issue.

Without getting into a deep economic analysis of the pros and cons of Trump's N.A.F.T.A. promise, it may be worth remembering that Canada and the U.S. had negotiated a trade agreement years before N.A.F.T.A. and that N.A.F.T.A. largely added Mexico to the mix.

The Canada-U.S. Free Trade Agreement of 1989 has never been repealed.

Thus, if N.A.F.T.A. is discarded – as Trump has threatened to do – then the Canada-U.S. Agreement will presumably become effective once again. If this occurs, then the future for Canada may not be all bad.

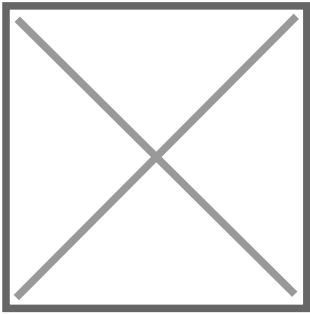
For example, a number of columnists have pointed out that unlike N.A.F.T.A., the original Canada-U.S. pact did not allow foreign corporations to challenge Canadian laws. Reports state that American corporations have used the investor-state dispute settlement mechanism under N.A.F.T.A. to override Canadian environmental and regulatory laws – to Canada's detriment. Under the original free-trade agreement, they would not be able to do so. This would provide Canada greater freedom to enforce strong environmental policies.

Even Canada's Prime Minister Trudeau has signalled that Canada is prepared to renegotiate N.A.F.T.A.

So, while it is still too early to tell exactly what President Trump will do and how his economic policies will impact Canada, his threat to cancel N.A.F.T.A. should not necessarily be viewed as a negative. Indeed – and we say this without partisanship – his promise may be a blessing to Canada.

(This blog is provided for educational purposes only, and does not necessarily reflect the views of Gardiner Roberts LLP).

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