



NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) AND TRADE RELATIONS

OVERVIEW

The Assembly of First Nations' (AFN) work on the trade relations portfolio supports implementation of Chiefs-in-Assembly resolutions on economic and trade development.

These resolutions, including Resolution 36/2017, *First Nations Trade Relations*, and Resolution 104/2017, *Establishing a First Nations Advisory Committee under Section 6 of the Department of Foreign Affairs, Trade and Development Act* affirm First Nations inherent right to trade and mandate efforts to advocate for First Nations economic growth and the development of options to secure greater economic independence. This resolution also supports working with Canada to include an Indigenous Peoples Chapter in all trade agreements.

In August 2017, National Chief Perry Bellegarde was invited to participate on a North American Free Trade Agreement (NAFTA) Council. This opportunity provides additional opportunities for advocacy. It is essential that First Nations have a voice to ensure respect of First Nations rights and consideration of First Nations interests. The National Chief has also argued for the inclusion of First Nations negotiators.

National Chief Perry Bellegarde has pressed for the inclusion of an Indigenous Peoples Chapter in NAFTA and advocated engagement

with First Nations on the potential content of such a chapter. Any chapter in a new trade agreement speaking to Indigenous peoples must align with the rights of First Nations under the *Constitution* of Canada and international law.

Since the original NAFTA came into effect in 1994, the legal landscape regarding recognition of the rights of Indigenous peoples has developed significantly, including the adoption of the UN Declaration on the Rights of Indigenous Peoples. The AFN continues to emphasize that the rights of Indigenous peoples must be respected and adopted as an essential component of modern trade relations and that they are a necessary aspect of sustainable development.

The first round of negotiations took place in Washington, D.C. on August 16-20, 2017. The rounds alternate between the USA, Mexico and Canada. During the fifth Round Canada proposed the inclusion of an Indigenous Peoples Chapter. At Round 6 in January 2018, Canada provided a detailed presentation on the Draft Indigenous Peoples Chapter to their USA and Mexico counterparts. This was the first opportunity for the USA and Mexico to consider Canada's opening draft of this chapter.

The intent at the start of this process was for the discussions on the new agreement to be

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concluded for December 2017; however this time line has been extended into 2018.

In December 2017, Resolution 104/2017, *Establishing a First Nations Advisory Committee under Section 6 of the Department of Foreign Affairs, Trade and Development*

Act, was passed directing the AFN to work with the federal government to establish an advisory committee to assist and provide support to the Ministers of Foreign Affairs and International Trade to advocate for First Nations effective participation in trade initiatives and existing trade mechanisms.

UPDATE

There have been no recent NAFTA negotiation rounds scheduled. Negotiations have instead been replaced by high level meetings between Foreign Affairs Minister Chrystia Freeland and USA Trade Representative Robert Lighthizer, and Mexico's Secretary of Economy Ildefonso Guajardo Villarreal. General Exception language for Indigenous rights has been a part of the high level officials meetings, however, recent meetings have not included focus on the Indigenous Chapter proposed by Canada.

Building on the work and proposed inclusion of an Indigenous Peoples Chapter in NAFTA, Canada has introduced the concept of a Trade

and Indigenous Peoples chapter at the Pacific Alliance Negotiations. The Pacific Alliance Free Trade Agreement is being negotiated with Colombia, Chile, Peru, Mexico, and associated members: Canada, Australia, New Zealand and Singapore. On March 9, 2018, Canada also announced the launch of negotiations towards a comprehensive Canada-Mercosur Free Trade Agreement, however, there are additional considerations that must be part of the deliberations with respect to an Indigenous Peoples Chapter that is protective of Indigenous rights both in Canada and in Mercosur states. Mercosur is a South American trading block composed of Argentina, Brazil, Paraguay and Uruguay.

NEXT STEPS

- Continue advocacy for an Indigenous Peoples chapter in NAFTA and towards inclusion of Indigenous Chapters in future Free Trade Agreements (FTAs). Continue to advocate for environmental protection, gender equality, and other measures to be consistent with the rights of Indigenous peoples under the Constitution and international law.
- Continue to update the AFN Executive Committee, AFN Chiefs Committee on Economic Development and First Nations leadership regarding First Nations involvement in FTAs.
- Continue to monitor the NAFTA negotiations and participate on the NAFTA Council. Advance First Nation priorities on Trade, including a strategy for the enhancement of First Nation trade opportunities.