



## **NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) AND TRADE RELATIONS**

### **OVERVIEW**

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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 affirm First Nations inherent right to trade, mandate efforts to advocate for First Nations economic growth and greater economic independence, and support working with Canada to include an Indigenous Peoples Chapter in all trade agreements. Resolution 36/2017, *First Nations Trade Relations*, Resolution 104/2017, *Establishing a First Nations Advisory Committee under Section 6 of the Department of Foreign Affairs, Trade and Development Act*, and Resolution 38/2018, *Realizing Benefits for First Nations in the Implementation of International Trade and Investment Agreements* all give direction to the AFN on trade.

In August 2017, National Chief Perry Bellegarde was invited to participate on an advisory council to Canada's Minister of Trade on the North American Free Trade Agreement (NAFTA). This provided numerous opportunities for advocacy and a voice to ensure respect of First Nations rights and consideration of First Nations interests. The National Chief has pressed for the inclusion of an Indigenous Peoples Chapter in NAFTA, engagement with First Nations on the potential content of such a chapter, and that a new trade agreement 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 for all trade and investment agreements as they are a necessary aspect of sustainable development.

Canada has also established an Indigenous Working Group, with membership from the AFN and other national organizations, modern treaty holders and representatives, and economic technicians.

Negotiations on the new NAFTA began in August 2017 and concluded in September 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.

# ISSUE UPDATE

## October 2018

In July 2018, Resolution 38/2018, *Realizing Benefits for First Nations in the Implementation of International Trade and Investment Agreements*, was passed, directing the AFN to work with the federal government to promote First Nations businesses through trade missions

in new markets, developing procurement opportunities, and support First Nations trade capacities through the development of a First Nations centre of excellence on international trade and investment.

### UPDATE

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On September 30, 2018, Canada, the United States and Mexico concluded the renegotiations of NAFTA – renamed as the United States – Mexico – Canada Agreement (USMCA). Prior to this, in August 2018, President Trump and the outgoing President of Mexico, Enrique Peña Nieto, announced that Mexico and the United States had reached a deal. The deal between the US and Mexico did not include an Indigenous Peoples Chapter. All parties must agree on a chapter for its inclusion in an agreement, as such, based on the lack of a chapter for Indigenous peoples in the USA – Mexico deal, it became very difficult for Canada to negotiate an Indigenous chapter, in addition to some other elements such as a Gender chapter, in a trilateral agreement with Mexico and the USA. However, the National Chief was successful in advocating for the addition of provisions to respect First Nations rights and provide preferences for First Nations businesses. New provisions in USMCA that benefit First Nations include: A general

exception for Indigenous Rights which respects inherent and Treaty rights; language that recognizes and upholds the role of First Nations in protecting and preserving the environment, preferences for First Nations in the area of government procurement, state owned enterprises and handicraft textiles.

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 and in the Mercosur negotiations. The Pacific Alliance Free Trade Agreement is being negotiated with Colombia, Chile, Peru, Mexico, and associated members: Canada, Australia, New Zealand and Singapore. Canada is also negotiating a comprehensive Canada-Mercosur Free Trade Agreement. Mercosur is a South American trading block composed of Argentina, Brazil, Paraguay and Uruguay.

### NEXT STEPS

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- Continue to advocate for the addition of provisions that will respect First Nations rights and provide preferences for First Nations businesses in all trade agreements; continue in NAFTA and towards inclusion of Indigenous Chapters in future Free Trade Agreements (FTAs) 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, the AFN Chiefs Committee on Economic Development and First Nations leadership regarding First Nations involvement in FTAs.
- Continue to monitor any changes to USMCA as a result of the US mid-term elections, and advocate directly Minister Freeland. Advance First Nation priorities on Trade, including a strategy for the enhancement of First Nation trade opportunities.