



NALS Stakeholder Dialogue on North American Competitiveness Issues and Recommendations

November 2016¹

INTRODUCTION

The need for a more inclusive dialogue about the future of North America -- one that takes place between governments and societies and that includes key stakeholders -- has been clear for a number of years. In 2016, the North American leaders, recognizing this need, announced “the first annual Stakeholder Dialogue on North American Competitiveness” to be held in Washington. The goal of the dialogue is to “provide private sector, local government, labor, and civil society representatives an opportunity to contribute ideas on increasing North American competitiveness.”²

On September 29, 2016, the Wilson Center was proud to host the first annual stakeholder dialogue. In coordination with the three North American governments, Wilson’s Canada Institute and Mexico Institute assembled a diverse group of more than forty representatives of entities deeply engaged in North American issues. They ranged from large multinational firms such as ExxonMobil and Walmart to business associations such as the Mexican Institute for Competitiveness and the U.S. and Canadian Chambers of Commerce, to environmental and labor organizations such as the Nature Conservancy and the AFL-CIO.

The two objectives for this meeting were to generate action-oriented recommendations and to provide a listening post for government officials. To focus the agenda, participants were asked to submit short think pieces in advance of the meeting.³ Government officials made brief interventions, but the intention of the event was to stimulate frank and relevant stakeholder input.⁴

The day-long discussion was organized into two separate conversations: the first on economic competitiveness; the second on energy and climate change. Much of what we heard was familiar such as challenges with borders, mobility and political will to stimulate real reforms but there were also new issues, particularly in the areas of innovation, skills development and cooperation in the energy-climate space.

¹ Recommendations summarized from a meeting hosted by the Wilson Center (Canada Institute and Mexico Institute) on September 29, 2016. More detailed information, a full list of participants and stakeholder submissions can be accessed at <https://www.wilsoncenter.org/NALS-dialogue>

² *United States Key Deliverables for the 2016 North American Leaders’ Summit* (June 29, 2016) <https://www.whitehouse.gov/the-press-office/2016/06/29/fact-sheet-united-states-key-deliverables-2016-north-american-leaders>

³ Available at <https://www.wilsoncenter.org/NALS-dialogue>

⁴ Chatham House rules were observed during the meeting and in this report, although submissions attributed to authors are available on our site, published with the permission of the authors.

Finally, the timing of the meeting was particularly poignant, taking place in the wake of Brexit and in the midst of a virulently anti-trade U.S. election campaign. As one contributor noted, North American cooperation is an example to the world that it is possible to achieve cross-border cooperation through a processes that contain both democratic legitimacy and balanced consideration of national interests. A summary of main discussion points and recommendations follows.

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THEMATIC DISCUSSIONS

Borders

Stakeholders agreed that there is a significant need to increase the efficiency with which cargo and individuals cross North America's land borders, noting that there is a strong link between border efficiency and North American competitiveness. Growing trade flows, aging and insufficient border infrastructure, and increased border security have led to major congestion at our land ports of entry, but stakeholders see opportunities to address these challenges through regional cooperation.

Participants pointed to the processing of air cargo at UPS and FedEx facilities as a strong example of the efficiencies that are attainable through government-industry cooperation. While admitting that the land border is more unpredictable and challenging than moving cargo by air, there was a pervasive belief that technological and policy innovations, combined with strategic investments, can significantly improve efficiency at the North American land borders while simultaneously strengthening border security.

On the security-efficiency nexus, stakeholders noted that digitizing customs and other cargo documents not only reduces the associated paperwork burden but also eliminates opportunities for corruption. As one participant put it, "bit streams don't ask for bribes." Similarly, trusted traveler and trusted shipper programs have sped up processing times for pre-vetted border users while allowing border officials to better focus their enforcement

efforts on crossers representing a high or unknown level of risk. As emphasized in previous NALS declarations, there is a need to expand enrollment in these programs and integrate them across the three countries. Finally, stakeholders pointed out that border congestion is bad for border security, since it creates opportunities for cargo to be contaminated. In other words, vulnerabilities are exacerbated in less efficient border environments.

Specific Recommendations:

1. Improve data collection (such as on border wait times) and harmonize information across the North American region. Use cargo tracking systems to diagnose border bottlenecks, and target investments toward the main causes of current border backups, whether this requires infrastructure spending, additional staff, or improved use of technology.
2. Trilateralize as much of what is happening in Beyond the Border and the 21st Century Border initiative as is feasible.
3. Expand pre-inspection pilots to include manufacturing sites away from the border, with security protocols and technology to ensure the integrity of cargo.
4. In order to promote e-commerce and small business participation in trade, place border/customs officials from all three countries at the main express carrier air hubs to pre-clear cargo.
5. Raise *de minimis* levels in Canada and Mexico to U.S. levels to help to promote e-commerce and small business exports.
6. Fully digitize customs and other border paperwork within North America, including NAFTA certifications and power of attorney.
7. Fully staff our border crossings with the officials needed to efficiently clear people and cargo.

Mobility

A 2016 study on North America by the Council on Foreign Relations found that North America's demographics create a significant global advantage but this advantage is unrealized because of fragmented policies for education and workforce development.⁵

⁵ Council on Foreign Relations, *North America: Time for a New Focus* (June 2014)
<http://www.cfr.org/americas/north-america/p33536>

Among NALS stakeholders, there was a clear consensus on the need for reforms and to expand and facilitate the free movement of higher-skilled workers and business travelers throughout the three countries.

Participants also recognized the need to reform movement provisions for lower-skilled workers, particularly in the US-Mexico context. Various reformulations of the *Bracero* program were suggested, and a recent paper by Carlos Gutierrez, Ernesto Zedillo, and Michael Clemens was a recommended reference.⁶

As the economic composition of the economy shifts from manufacturing to services, the cross-border movement of service providers becomes even more important. One participant pointed to the inefficiencies of having to use three different drivers to manage the transit of one shipping container across three NAFTA countries.

Despite the focus on cross-border movement for economic purposes within the NAFTA countries, economic migration cannot be isolated from all other aspects of migration. This is what makes the task so challenging. Policy reforms proposed in the context of NALS are functionally connected to such issues as U.S. immigration reform, Syrian refugees, and countries such as India and China also attempting to gain a greater foothold in the North American labor market. Stakeholders from all three countries perceive a reluctance to make policy changes that would improve North American competitiveness, lest they ignite some of the more controversial aspects of the cross-border mobility issue.

Much of the challenge stems from the inability or unwillingness of U.S. legislators to enact reforms. Until that changes, the best that can be hoped for is incremental improvements that require little or no expenditure of political capital.

The NAFTA TN visa is not working, except for those workers who manage to qualify under the 1994-era list of approved professions. Businesses are increasingly relying on the H1B visa, which is not ideal because of the quota limits. Business stakeholders are aware of other visa options such as the E visa for traders/investors and the L visa for intra-company transferees, but are unsure how to make use of them.

Coordination and mutual recognition of education credentials and professional certification are important to improving the productivity of the North American labor force. These elements are complicated by the fact that states and provinces often have regulatory authority over credentialing. Also noted was Mexico's limited capacity to provide skills training and skills assessment at levels comparable to the U.S. and Canada.

⁶ Working group headed by Carlos Gutierrez and Ernesto Zedillo (and led by Michael Clemens of the Center for Global Development) that recommended a new U.S.-Mexico bilateral labor accord. <http://www.cgdev.org/publication/sharedfuture>

Labor unions are an important source of information and institutional support to improve the effectiveness and efficiency of cross-border mobility. Stakeholders from organized labor groups emphasized that unions do not oppose movement of people. Rather, they seek to ensure that workers' rights are upheld consistently across jurisdictions. At the same time, participants noted that harmonized North American labor standards would remain out of reach until Mexico's labor reforms were complete.

Labor market inflexibility is eroding North America's global competitiveness and making it a less attractive destination for foreign investors. Stakeholders from the high tech sector indicated a marked preference for investment in EU sites because, even though these are higher cost locations, it is easier to move highly skilled individuals between EU countries than between the three NAFTA partners. If the desire in North America is to increase employment in highly skilled jobs at the top end of the value chain, and turn innovative tendencies into successful commercial ventures, then an integrated market for skills mobility is a critical component.

Specific recommendations:

1. Continued use of technology to facilitate work-related travel and tourism, building on the recent successes of trilateral trusted traveler programs.
2. Use public relations/advertising tools to celebrate current successes in cargo and traveler facilitation so that it is easier to generate public support for future initiatives (e.g. signage in airports and train stations).
3. Better / more easily accessible information about cross-border mobility options, especially regarding various visas and how to obtain them.
4. Ensure that cross-border service providers (and their customers) have easy access to information regarding after-sales service contracts.
5. Create a list of pre-approved employers and eligible employees. (This may be similar to the DHS pilot, Known Employer Program.)
6. Work to educate Congressional committees about the importance of trade and the linkage between labor mobility and increased productivity. Observers identified a turf war between the House and Senate Judiciary committees, responsible for immigration, including temporary labor mobility, and Senate Finance/House Ways & Means committees responsible for trade agreements. Stakeholders familiar with congressional relations assert that the disconnect between the two sets of committees has created a dead-end for trade-related labor mobility proposals.

7. Focus on coordination of training and credentialing of high-skill, high-demand occupations. Work with employers and labor unions to ensure that skills are workplace relevant and worker rights are upheld, regardless of jurisdiction.
8. Work towards consistent labor standards across the three countries and its sub-federal regions. In particular, ensure that permits for worker mobility are not tied to a specific employer, thus reducing the chance that workers will tolerate abuses in order to retain their permission to work abroad.
9. Provide technical assistance to Mexico to build a common set of North American labor standards.
10. Focus more on highly skilled service providers and the labor demands of this sector. Develop databases of where the demand is and where it is growing.
11. Develop homegrown talent through job training and retraining programs and more effective deployment of Trade Adjustment Assistance. Employer participation in skills identification, certification and training is key.

Regulatory Issues

Having derived most of the economic benefits generated by the reduction of tariffs among the three NAFTA partners, the next most productive area for gains from trade is the reduction of non-tariff barriers, in particular, the elimination of duplicative testing and certification measures. These efforts have, since 2011, been contained by various regulatory cooperation efforts: the United-States Canada Regulatory Cooperation Council (RCC) and the United States-Mexico High-Level Regulatory Cooperation Council (HLRCC). However, because the two regulatory alignment mechanisms are bilateral in nature, there was not a great deal of discussion of trilateral enhancements at the NALS stakeholder meeting.

Also, from a functional level, there are few regulatory alignment targets that are feasible on a full trilateral basis.

Two new areas that were suggested for future regulatory alignment were cyber issues and energy. On energy, it was suggested that the successful mechanisms used by the RCC for consumer, health, and food products should be adopted for use in the area of trilateral energy standards.

On cyber, representatives from the ICT sector noted that cooperation on cyber security is their highest priority issue. Cyber-security is not only a key defensive strategy to protect current assets, it is also a critical measure for building investor confidence. All three

countries have an interest in expanding connectivity and advancing the “internet of things” revolution. The North American ICT sector is seeking to promote development of applications in new areas such as transportation and healthcare.

Specific Recommendations:

1. Revitalize the U.S.-Mexico HLRCC utilizing, as appropriate, lessons from the U.S.-Canada RCC processes.
2. Ensure that the RCC stays on track through government transitions.
3. Ensure appropriate levels of trilateral coordination and communication between the two bilateral processes. The goal, trilaterally or bilaterally, should be for regulators to have an ongoing and steady dialogue.
4. Expand regulatory cooperation efforts to sub-national (state, province, municipal) regulators, making use of existing fora such as PNWER and the Council of the Great Lakes Region (CGLR).
5. Utilize the mechanisms for problem identification and collaboration between regulators and industry developed in the RCC to develop regulatory alignment in the energy structure. Use the RCC model to achieve regulatory objectives set out in the North American Climate, Clean Energy, and Environment Partnership Action Plan, in such areas as energy transmission and transportation standards.
6. Use the NIST framework as a baseline set of standards for North American cyber security and then coordinated approaches in any area where stakeholder agree to a NIST-plus approach.

Energy Infrastructure

North America is in a strong position relative to other regions to further develop its energy sector. North America can leverage the advantages of being an open, stable, diversified and market-driven economy to exert leadership and make a contribution globally to the responsible development and use of energy.

The energy sector will be well served by a shared vision for North America’s energy future that is anchored in open trade and investment, coupled with policies that advance shared

objectives including safety, security, protection of the environment and the fight against climate change.

Stakeholders agreed that any coherent vision for North America's energy future must include the planning and development of energy infrastructure. They called for a private sector-led assessment of infrastructure opportunities and needs. Intensified dialogue between the three countries will help to map cross-border infrastructure while addressing national and public interests in such investments.

A much-noted challenge in many energy projects is that of the "social license".

On the one hand, community opposition to infrastructure projects poses a major impediment to the speedy and efficient construction of new capacity in production, generation and dispatch of energy to market, bringing enormous extra costs to the industry and delays in completion. However, it is clear that there are legitimate concerns in many protest movements against energy projects, and that effective communication and dispute resolution has been elusive. This applies to both traditional sources of energy and renewables.

Engagement with local communities in large energy infrastructure projects should involve more than consultation and accommodation. Local communities have a direct stake in the process. The recent focus by the North American leaders on Aboriginal/First Nations issues is of particular importance here, given the high profile of energy projects on tribal lands. Guidance for future action can be derived from case studies of groups that have handled the social license issue well, profiling what works (though participants noted that getting this information can be difficult).

The North American leaders and their energy ministers can and should play a role in facilitating dialogue and mutual understanding. An important first step would be for the energy ministers to convene a stakeholder dialogue for energy projects, to consult with business, civil society and experts on the issue of social license.

Specific Recommendations:

1. Develop a "North American Infrastructure Mechanism" to evolve the current North American Development Bank through Canadian participation. P3 partnerships are key but there must be an easy mechanism for capital to identify opportunities and then participate.
2. Intensified collaboration between regulators and industry to focus on shared priority challenges, with the ultimate goal of seamless borders for energy extraction and transportation. Cooperation should focus on concrete challenges.

3. Large energy infrastructure projects should not only seek to align the contents of regulation but also the processes of review and public engagement for greater efficiency, predictability and timeliness.
4. Nuclear energy has been a relatively under-examined feature of the North American energy landscape but it is also a crucial component of a low-carbon future. Increased cooperation of nuclear safety and technology is a central priority.
5. Streamline the U.S. presidential permitting process.
6. Stakeholder dialogues should pay particular attention to Aboriginal/First Nations collaboration.
7. Consultations should be guided by a checklist of best practices that includes timelines and specific objectives for consultation and mitigation.

Clean Energy/Climate Change

Participants agreed that we are at a crucial point in clean energy/climate change leadership. Most countries have made environment commitments and now we need to think about how to reach these goals individually and collaboratively. NGOs commented that NALS was the perfect platform to continue the momentum generated by the Paris Agreement.

Proposals ranged from specific, local level initiatives to continent-wide such as a North American carbon market/price, a common approach to nuclear energy, and convergence of standards and regulations. One NGO stressed the importance of the land use component to the climate solution, noting that stopping deforestation, reforesting degraded lands, and changing our agricultural practices could be the biological bridge until we have the technology solutions.

Participants agreed that early and frequent stakeholder consultation is key. Participants also stressed the need to increase public literacy on where energy comes from and how it's developed. One university association stressed the role of the higher education system in providing unbiased science-based research on these topics.

Specific Recommendations:

1. Strike a balance between on environmental and economic goals; the transition to full clean energy use will be a long-term, incremental process.

2. Ensure that new energy infrastructure projects are also climate compatible.
3. Use revenue collected from carbon taxes and similar instruments to encourage technological innovation such as municipal LED lighting; energy captured from waste products; and green building and transit technology.
4. Develop a North American carbon market/ price, building on regional carbon markets.
5. Include the social cost of carbon as a criterion for government decision making on infrastructure and permitting decisions.
6. Mainstream land use (forestry and agricultural practices) into conversations about emissions reduction.
7. Exempt green technologies and building products from Buy Local government procurement restrictions among the three NAFTA countries.

Investment

Stakeholders discussed various ways to attract investment to North America. Among the region's key assets are low-cost energy, innovative companies, robust capital markets, balanced demographics, educated workforces, and efficient borders.

While the three countries often compete for investment, some participants noted that competition for investment often benefits investors and encourages efficiencies, but most agreed that subsidy battles played out between regions made everyone worse off.

A number of cooperative enhancements were also discussed – most involved reduction of unnecessary costs and regulatory duplication among the three countries. Inefficiencies in permitting received a great deal of attention.

Trade and investment are linked, and the easier it becomes for North America to trade with outside parties, the more appealing North America becomes as an investment opportunity. Participants discussed the need to educate the public and members of Congress on how critical trade is to them. A small business noted the importance of leveraging export opportunities, and how increased cooperation between national export credit agencies could help finance exports and grow SMEs across the three countries. Also, as noted previously, coordination on cybersecurity was identified as an important mechanism to attract and retain investment.

Specific Recommendations:

1. Improve transparency in investment incentives; limit and reduce incentives for investment promotion over time.
2. Pass the TPP this year to generate gains from updated and expanded trade rules for North America as well as access to new markets.
3. Ratify the WTO Trade Facilitation Agreement (Canada and Mexico)
4. Ensure that North American products fully benefit from trade agreements by coordinating our FTA discussions and insisting on cumulation of rules of origin in other FTAs.
5. Increase cooperation between export credit agencies to support North American exports to other regions
6. Consider how to better promote the 'Made in North America' brand.

Institutions

NAFTA commentators have long been divided over whether or not the North American trading bloc needs more institutions in order to advance and coordinate its agenda. In the wake of Brexit and other fractures in the EU, it seems that the ad hoc, incremental development of the North American trading area may be key to its durability. Nevertheless, a few key enhancements should be considered. They included:

1. NALS Stakeholder Dialogue

The Stakeholder Dialogue, held under the auspices of the Woodrow Wilson Center, is the formal mechanism that was called for at the 2014 NALS meeting, and announced at the 2016 NALS meeting. Going forward, it is the formal channel for non-governmental input into NALS planning and agenda building.

2. Border Infrastructure Evaluation Mechanism

Create a tripartite institution (or separate bilateral ones) to focus on what we need at our borders in terms of coordination of policies and procedures, infrastructure investment.

3. Export Financing Coordination

Set up coordinating body among the three federal export financing agencies in the three countries: EXIM, EDC, BancoMex to help businesses, especially SMEs better manage exports from the North American supply chain to third markets.

4. North American Development Bank

Make the North American Development Bank truly trilateral by including Canada. A variation of this suggestion was the creation of a transportation infrastructure bank focused on connecting the North American market.

Staying Engaged

The Stakeholder Dialogue official site is <https://www.wilsoncenter.org/NALS-dialogue>. It is a platform for ongoing engagement from those interested in promoting greater North American competitiveness. It contains information on the NALS process, the bios of participants in the first Stakeholder Dialogue, thought pieces on NA competitiveness, and a Comments section where all may post their ideas and suggestions. Future meetings of stakeholders will be announced on the site. And other organizations working on NA competitiveness are welcome to link to it.