



The Key Elements of a Trade Agreement?

As the Trump Administration considers revision of NAFTA and other trade agreements, both the White House and House Democrats have announced their visions for future U.S. trade agreements. Last week, White House National Trade Council Director Peter Navarro disclosed a list of [24 key elements of a Model Trade Agreement](#). On March 27, Ways & Means Committee Democrats published their list of “principles and proposals” for refashioning U.S. trade policy. Both proposals offer a shared, bipartisan interest in trade enforcement and in maximizing the U.S.’s sovereign right to regulate trade.

Navarro’s Focus: Trade Deficits... and Random Elements

Navarro’s approach attempts to leverage free-trade agreements (FTAs) to address bilateral trade deficits. Navarro advocates specific, yet undefined provisions on deficits and emphasizes classic trade remedies to address behavior that may contribute to large deficits. This sweeping approach to the management of deficits would include provisions on dumping, diversionary dumping, evasion of dumping and countervailing duty orders, currency manipulation and “loopholes” in rules of origin. Navarro also appears to advocate a sector-specific policy to address trade deficits in select products as well as foreign discriminatory practices. Examples of this approach include FTA provisions on lumber stumpage (Canada), processed foods and forced technology transfer (China).

Navarro’s ideas received little support from Congress, as members criticized his grasp of how both FTAs and supply chains work in the real economy. Members and economists argued against the effectiveness of the trade deficit criteria as a condition for trade deals. For instance, Senator Pat Toomey (R-PA) noted that trade deficits are not “inherently a serious problem,” that a reduction of imports would result in fewer choices and higher costs for U.S. consumers and that “historically, trade deficits do not harm manufacturing... and they don’t cause unemployment.”

The House Democrats’ Proposal

The policy proposal circulated by Ways & Means Committee member Rep. Bill Pascrell (D-NJ) identifies problems similar to those highlighted by Navarro, stating that FTAs should address currency manipulation, the monopoly powers of SOEs and nontariff barriers. The Democratic proposal would also require more resources for trade enforcement and a renegotiation of investment rules to preserve greater governmental regulatory authority. The Democrats’ paper also seeks greater public investment in education, infrastructure and job training to bolster America’s long-term competitiveness.

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What to Watch For

- There is bipartisan support for more enforcement of evasion of trade remedies and diversionary dumping. Anticipate Executive Branch efforts to address this through self-initiated trade remedies cases against select foreign imports.
- NAFTA’s renegotiation is likely to become a model for revision of other agreements, with the KORUS FTA a likely target.

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- Renewed use of Section 301 of the Trade Act of 1974 as a featured tool on trade deficits in parallel with new negotiations. Section 301 authorizes the USTR to take appropriate action in response to foreign actions that violate an international trade agreement or are unjustifiable, unreasonable or discriminatory.
- High-pressure trade diplomacy by the Administration seeking bilateral or multilateral agreements to voluntarily restrain exports or otherwise manage trade in certain products.

*The Night Note has a long tradition in Washington, where for years it has been a channel used by cabinet secretaries to alert the White House of critical issues and vital news that should be among the President’s priority concerns. We’ve adapted it here to communicate timely issues that concern the trade and investment community stemming from new policy actions and decisions taken by the Trump Administration.