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NAFTA TN AND E VISAS SUPPORT U.S. CONSUMERS, INVESTMENT AND JOBS

BY KATHLEEN CAMPBELL WALKER

EXECUTIVE SUMMARY

Eliminating the North American Free Trade Agreement's trade provisions would cost many U.S. jobs and damage the economies of the United States, Canada and Mexico. NAFTA also contains important immigration provisions whose elimination would carry additional negative impacts to a variety of critical industries. Under NAFTA, Canadian and Mexican professionals can be admitted in TN status, while investors are admitted on E visas. Americans who wish to work or invest in Canada or Mexico enjoy reciprocal benefits.

As an example of the immigration impact of NAFTA, U.S. patients in Michigan, Texas and elsewhere benefit from the care provided by nurses using TN visas. The Henry Ford Health System in metro Detroit alone employs about 300 Canadian nurses. TN visas are also used for physical therapists, medical technologists, pharmacists and other health care occupations. TN visas also enable scientists and veterinarians to help the dairy and cattle industries, while U.S. students are taught by instructors in TN status at universities and seminaries.

TN visas allow U.S., Canadian and Mexican technology, service and manufacturing companies to transfer employees across the border, improving productivity and leading to the hiring of additional workers in America. The E visa facilitates investment and helps create jobs in America. Canada and Mexico are major sources of foreign direct investment in the United States.

The benefits of NAFTA to cross-border mobility, accessibility to essential workers, and its related investment in the United States and creation of U.S. jobs are critical. The United States should retain the benefits received and given by Most Favored Nation trading partners as an essential part of its efforts to profit from and be integrated into the global economy. Losing the immigration benefits of NAFTA will harm U.S. workers, consumers and companies.

If NAFTA were to end, both the TN and E visas would become unavailable. That means the end of the NAFTA-connected jobs, health and consumer benefits Americans now enjoy.

THE IMPACT OF ENDING NAFTA'S IMMIGRATION PROVISIONS

Ending NAFTA will hurt U.S. consumers, workers and companies. The "trade" impact of ending NAFTA has been addressed in studies, such as the Business Roundtable's estimate that ending NAFTA would reduce "the level of U.S. real output" by 0.6 percent and cause an immediate loss of jobs for 1.8 million workers in the first year. U.S. Gross Domestic Product would "remain depressed by over 0.2 percent, permanently."[1]

NAFTA also contains important immigration provisions whose elimination would carry additional negative impacts. Under NAFTA, Canadian and Mexican professionals can be admitted in TN status, while investors are admitted on E visas. Americans who wish to work or invest in Canada or Mexico enjoy reciprocal benefits.

An important use of TN visas is for nurses in Michigan, Texas and elsewhere. To cite just one example, the Henry Ford Health System in metro Detroit employs about 300 Canadian nurses, a number of whom live in Canada and commute daily to their jobs in Michigan.[2] Under U.S. immigration law there is no temporary visa available for most foreign nurses other than the TN. The demand for nurses is so great in the U.S. that some hospitals sponsor nurses for employment-based green cards and wait years for the nurses to arrive for their first day on the job. TN visas are also used for physical therapists, medical technologists, dentists, pharmacists, psychologists and other health care occupations (Appendix 1603.D.1 of NAFTA).

The dairy industry uses scientists, technologists and veterinarians to place workers in remote areas of the United States. The same is true for other parts of U.S. agriculture. Instructors at colleges and seminaries, particularly in distant or smaller community settings, are able to use TN visas to employ individuals to teach American students. Engineers, lawyers, accountants and economists are among the many other eligible occupations under NAFTA.

The TN visas allow U.S., Canadian and Mexican technology (and other) companies to benefit under NAFTA by the ability to transfer employees back and forth across the border. This improves productivity and encourages increased hiring of workers in America. By facilitating investment, the E visa helps create jobs in America. Both Canada and Mexico are major sources of foreign direct investment in the U.S.

If NAFTA were to end, both the TN and E visas would become unavailable. That means the jobs, health and consumer benefits Americans now enjoy connected with these visas also would end.

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[1] *The National and State-by-State Impacts on Jobs, Exports and Output*, Prepared by Trade Partnership Worldwide, LLC for Business Roundtable, January 2018.
[2] Sarah Cwiek, "Visa Uncertainty Worries Canadian Nurses, and the Michigan Hospitals That Rely on Them, Michigan Radio, March 17, 2017.

BACKGROUND ON NAFTA

The normally volatile topic of immigration has been eclipsed by trade during the renegotiation of NAFTA initiated by the United States on May 18, 2017, at Donald Trump's direction. Ambassador Lighthizer, the U.S. Trade Representative (USTR), notified Congress of the Administration's intent to renegotiate NAFTA.[3]

On May 23, 2017, the USTR requested comments regarding the modernization of NAFTA[4] and provided notice of public hearings on the topic to be held from June 27 to 29, 2017. During the three days of hearings lasting about 25 hours, the focus was trade related.[5] In the public comments submitted regarding the hearing notice, the Canadian American Bar Association (CABA) briefly mentioned that the free movement of legal professionals was essential to support cross-border trade. The American Immigration Lawyers Association (AILA) noted in its comment that narrowing or eliminating global mobility provisions within NAFTA would hinder economic growth by creating non–tariff barriers, which would harm U.S. business interests.

The November 2017 release[6] by the Office of the USTR of its updated "Summary of Objectives for the NAFTA Renegotiation," does not even contain the words "immigration" or "visa." The same observation holds true for the original USTR summary released on July 17, 2017. Senator Charles Grassley (R-IA), however, sent a letter to Ambassador Lighthizer on October 23, 2017 requesting consideration of renegotiating the "guest worker" provisions of NAFTA (the "Grassley NAFTA letter").[7]

HISTORY OF NAFTA IMPLEMENTATION

To better understand the impact of NAFTA on immigration, it is important to remember that before NAFTA, in 1988, the U.S. and Canada concluded negotiations regarding the U.S.-Canada Free Trade Agreement (CFTA), which took effect on January 1, 1989.[8] While the CFTA was well-supported in the United States, Canadian opposition to the CFTA was strong.[9] Canadian Liberal Party leader John N. Turner referred to the CFTA as the "Sale of Canada Act."[10] The CFTA included immigration-related provisions to facilitate the temporary entry of business persons in a

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[3] Office of the USTR website posting of letter. https://ustr.gov/sites/default/files/files/Press/Releases/NAFTA%20Notification.pdf.
[4] 82 Fed. Reg. 23699 (May 23, 2017).
[5] Request for Comments posting on regulations.gov as to USTR-2017-0006 Docket ID. https://www.regulations.gov/docket?D=USTR-2017-0006.
[6] Office of the USTR website posting: https://ustr.gov/sites/default/files/files/Press/Releases/Nov%20Objectives%20Update.pdf.
[7] Senator Grassley website posting: https://www.grassley.senate.gov/news/news-releases/grassley-encourages-review-high-skilled-worker-program-nafta-negotiations.
[8] CFTA, Jan. 2, 1988, H.R. Doc. No. 216, 100th Cong., 2d Sess. (1988); 27 Int'l Legal Materials 293 (1988).
[9] Thompson, Elizabeth A. editor, Immigration Guide to the U.S.–Canada Free Trade Agreement, at 2 (American Immigration Lawyers Association 1989).
[10] *Id.*

reciprocal manner while maintaining requirements to ensure border security, protect indigenous labor, and permanent employment.[11]

The four immigration categories with their associated U.S. nonimmigrant (temporary) visas addressed in the CFTA were:

- Business Visitors (B-1)[12]
- Traders and Investors (E-1 and E-2)[13]
- Intracompany Transferees (L-1)[14] and
- Professionals (Trade Canada – TC).[15]

Just as with NAFTA, the CFTA did not provide for the ability of Canadians to use the B-1 or L-1 nonimmigrant visas, but the CFTA did create the E-1, E-2, TC, and Trade Dependent (TD) visa category options for Canadians applying for admission to the United States.

The CFTA's immigration-related provisions were published in Chapter 15 and the associated implementing regulations for the CFTA were published on January 3, 1989.[16]

After the CFTA was implemented and as the NAFTA discussions progressed, the subject of immigration was excluded. Late in 1991, pursuant to Mexico's request, immigration became a part of NAFTA in Chapter 15 of its 22 chapters.[17] NAFTA was signed by Presidents Bush and Salinas and Prime Minister Mulroney in San Antonio, Texas on December 17, 1992.[18] The House of Representatives voted to pass the NAFTA Implementation Act on November 17, 1993 with a vote of 234 to 200, while the U.S. Senate passed it on November 20, 1993 by a vote of 61 to 38.[19] The NAFTA Act was signed into law by President Clinton on December 8, 1993.[20] NAFTA entered into force on January 1, 1994.

Section 107 of the NAFTA Act amended section 501(c) of the CFTA to provide that CFTA would be suspended when NAFTA entered into force. The U.S. Department of State notes on its travel.state.gov website that the E-1

[11] CFTA, *supra* note 19, at Article 1501.
[12] See 8 CFR §214.2(b)(4) as now modified for Nafta.
[13] See 8 CFR §214.2(e).
[14] See 8 CFR §214.2(l).
[15] See 8 CFR §214.6, which now addresses the Trade Nafta (TN) professional substitute to TC.
[16] 54 *Fed. Reg*. 1, at 12-16 (January 3, 1989).
[17] Letter from James Puleo, Assistant Commissioner Examinations for the Immigration and Naturalization Service (INS) to Kathleen Campbell Walker (on file with the author).
[18] Schoonover, Martha J. and Walker, Kathleen Campbell, "Immigration Provisions of the North American Free Trade Agreement," at 3 (Immigration Briefings No. 94-3 March 1994).
[19] Congress.gov website posting: https://www.congress.gov/bill/103rd-congress/house-bill/3450/actions.
[20] NAFTA Act, Pub. L. No. 103-182, 107 Stat. 2057 (1993). (amending 19 U.S.C. §2112 note).

and E-2 (treaty trader/investor) categories for Canada became available on January 1, 1993 while 9 Foreign Affairs Manual (FAM) 402.9-10 provides that the categories became available on January 1, 1994. In other words, the State Department does not even provide a footnote in this section of the FAM that Canadians first were eligible for E visa based on the CFTA, which took effect in 1989.

WHAT HAPPENS TO TN AND E VISAS IF NAFTA IS TERMINATED?

Section 342 of the NAFTA Act provides that the U.S. immigration provisions of NAFTA take effect when NAFTA enters into force for the U.S. (January 1, 1994). If NAFTA is terminated, it would seem that implementing legislation would be necessary to reapply or snap back to the prior immigration provisions of the CFTA.[21] The E visa category for treaty traders and investors specifically refers to the entry of "aliens" pursuant to a treaty of commerce or navigation.[22]

Without such a treaty, how would E visa admission be possible if NAFTA is terminated? When implemented, the CFTA related legislation did not amend section INA §101(15)(E). It merely permitted Canadians to be classified as E nonimmigrants under the existing statutory provision for purposes of Annex 1502.1(B) of the CFTA.[23] It would appear that implementing legislation – a new law – would be necessary for E visa issuance authority to be restored under the CFTA.[24]

As to TN visa admissions, the Immigration and Nationality Act (INA), as amended provides in section 214(e) that the "alien" must seek to enter the U.S. pursuant to the provisions of section D of Annex 1603 of NAFTA. If NAFTA is terminated, there is no such annex and there is no reference in the INA to the superseded provisions of the CFTA. The CFTA implementing legislation also just amended section 214 of the INA to allow admissions in TC nonimmigrant status pursuant to Annex 1502.1(C) of the CFTA.[25] With NAFTA termination, the ability to approve TN status abruptly ends and the resurrection of TC (Trade Canada) nonimmigrant status would appear to require implementing legislation.

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[21] See Murrill, Brandon J., "U.S. Withdrawal from Free Trade Agreements: Frequently Asked Legal Questions," (Congressional Research Service September 7, 2016).

[22] Section 101(a)(15)(E) of the Immigration and Nationality Act, as amended (INA); Pub. L. No. 82-414, 66 Stat 163. 8 USC §1101 et. seq.

[23] See Pub. L. No. 100-449, Section 307(a), 102 Stat. 1851, 1876 (Sept. 28, 1988) and Thompson, *supra* note 20 at pp. 14 to 15.

[24] For comparison as to possible implications to the E treaty trader and investor category if the U.S. withdrew from NAFTA, it is perhaps useful to consider what the U.S. did when Bolivia withdrew from its free trade agreement with the U.S. On June 10, 2012, Bolivia gave notice to the U.S. of its withdrawal from the bilateral investment treaty between the U.S. and Bolivia.[24] Bolivian nationals with qualifying E-2 visas in place before the date of the withdrawal notice were allowed by the U.S. to continue to apply for E-2 visas for an additional ten years for all covered investments existing at the time of termination.

[25] See Pub. L. No. 100-449, Section 307(a), 102 Stat. 1851, 1877 (Sept. 28, 1988) and Thompson, *supra* note 20 at pp. 15 to 16.

The same conclusion does not hold true for L-1 and B-1 admissions since they were not a creation of NAFTA. It is the related procedural benefits from NAFTA that are at risk for these categories.

Chapter 16 of NAFTA contains the same basic nonimmigrant visa provisions mentioned above that were included in Chapter 15 of the CFTA. The TC category was replaced by the Trade NAFTA (TN) category. While the L-1 intracompany transferee category and the B-1 business visitor category were available to Canadian and Mexican citizens without their inclusion in NAFTA, the E-1 and E-2 treaty trader/investor as well as the Trade NAFTA (TN) Professional category became available for Mexican nationals for the first time via NAFTA.(Canadians were able to benefit from the comparable Trade Canada Professional category and the E-1/E-2 treaty trader and investor visa categories when the CFTA entered into force on January 1, 1989.)[26]

The existing B-1 business visitor category regulations were modified to include certain provisions from NAFTA related to customs brokers, transportation operators, tourism and tour bus operators among other provisions.[27] However, the State Department indicated that the B-1 activities listed in Appendix 1603.A.1 of NAFTA were permissible and illustrative of activities that were already allowed for under current law.[28] If NAFTA no longer exists, such provisions should still be applicable.

The L-1 intra-company transferee NAFTA provisions provided an option for Canadian L-1 applicants to skip the normal petition process required with USCIS and apply for admission in L-1 status at eligible U.S. ports of entry on the northern border. Without NAFTA, Canadians would probably be back in the same situation as other foreign nationals, who must file an I-129 petition first with USCIS, unless their corporate sponsor has an approved L-1 blanket petition.[29]

While Canadian nationals are exempt from needing to obtain a TN visa from a U.S. consular post in most cases, Mexican nationals must apply for TN visas. At present, the reciprocity schedule between the U.S. and Mexico provides that the maximum validity period for a TN visa is one year. However, a TN visa holder may be admitted to the U.S. for a period of up to three years based on the visa by U.S. Customs and Border Protection. The TN category has no limit on the numbers of years in consecutive TN status a person may have, but applicants must still show that they have nonimmigrant intent in compliance with section 214(b) of the INA. (Nonimmigrant intent means a foreign national must convince a U.S. immigration official he or she does not intend to stay permanently in the United States.) Thus, the category is not a replacement or alternative for permanent residence in the United States.

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[26] See Schoonover and Walker *supra* note 8, for a discussion of differences between the immigration provisions of the CFTA and NAFTA.
[27] See 8 CFR §214.2(b)(4).
[28]State Department Cable 94-State-69994 (Jan. 8, 1994), reproduced in 71 Interpreter Releases 289 (Feb. 28, 1994).
[29] See 8 CFR §214.2(l)(4).

PROFESSIONS COVERED AND APPLICATION PROCESS

The 63 professions covered by the TN professional category are listed in Appendix 1603.D.1 to Annex 1603 of NAFTA.[30] The TN category was modeled on the H-1B nonimmigrant category but on a more limited basis. For example, the TN professions are limited to the 63 professions listed. The H-1B category does not have such a limit for specialty occupations. As a regulatory matter, U.S. Citizenship and Immigration Services (USCIS) recently narrowed the scope of the economist occupation under TN. The lack of a thorough update to the professions list has meant companies must utilize categories created more than two decades ago that may not fit neatly into today's labor market.[31]

Since the TN profession list was created, two footnotes were added by regulation to clarify that plant pathologists are included in the biologist profession and that actuaries are included in the mathematician profession.[32] As noted, the TN list of professions suffers from its failure to be updated to reflect employer needs for skilled talent. In a cross-border mobility survey conducted in 2017 by the Council for Global Migration (CGM) and the Canadian Employee Relocation Council (CERC), which asked employers to identify the most significant challenge to transferring employees between Canada and the U.S., 68% reported that compliance with immigration regulations was the most challenging.[33]

As to the TN application process, Mexicans and Canadians do not have to submit an I-129 petition with USCIS before applying for TN admission at a qualifying port of entry (POE) to the U.S. at the northern or southern border. Mexican citizens, however, must obtain a TN visa from a U.S. Consulate or Embassy abroad or approval of a change of status to the TN category from USCIS via a petition process. Thus, when evaluating how many Canadians may apply for TN status annually, it is a challenge due to Canadians' exemption from the nonimmigrant visa requirement in most categories, except, for example, the E treaty visa category.[34]

In addition, unlike the H-1B category, there is no limit on the number of TN admissions or visas that may be approved or issued. The TN visa or admission applicant does not have to file any prior Labor Condition Application (LCA) with the Department of Labor (DOL) as required in the H-1B nonimmigrant visa application process. A drawback is that unlike the H-1B category, there is no exemption from the nonimmigrant intent requirement of section 214(b) of the

[30] See 8 CFR §214.6(c).
[31] http://hr.dickinson-wright.com/2017/12/23/holiday-travel-advisory-beware-changing-interpretation-of-economist-for-foreign-nationals-holding-tn-status/.
[32] 69 *Fed. Reg.* 60939 (October 13, 2004). The final rule was effective November 12, 2004.
[33] Cross Border Mobility Survey published by CGM and CERC (August 2017). https://www.cfgi.org/global-immigration/news-and-alerts/Pages/CFGI-CERC-SurveyReport-082117.aspx
[34] See 8 CFR §212.1(a) regarding documentary requirements for Canadian admissions Canadians may have to obtain nonimmigrant visas even with their exemption if a waiver of a nonimmigrant inadmissibility ground is required.

Immigration and Nationality Act, as amended (INA) for TN visa applicants. While seemingly minor, this exemption is pivotal in the admission process to the U.S., as well as the ability to pursue permanent residence while maintaining nonimmigrant intent. There is no prohibition, however, on the ability of a TN visa holder to pursue permanent residence at some point.[35]

When NAFTA was originally enacted for ten years after its entry into force in 1994, Mexican citizens were subject to an annual numerical ceiling of 5,500 TN visas under Appendix 1603.D.4 to NAFTA. In addition, Mexicans were required to file an LCA with the DOL as well as an I-129 petition with USCIS.[36] The process was about the same as the current steps required for H-1B petition applicants.[37]

On January 1, 2004, the numerical cap, LCA, and I-129 petition were removed at the end of the agreed ten-year period for Mexican citizens.[38]

As noted above, the TN category does not have an annual numerical limit. In addition, there is no requirement to provide an LCA regarding an attestation to pay a certain wage by an employer of a TN worker.

A Note on Statistics

Although Senator Grassley was referring to the Trade NAFTA (TN) nonimmigrant visa category, his letter used the phrase "guest worker," which normally is used regarding non-professional temporary worker visa categories, such as the H-2A and H-2B. His letter indicated that available statistics suggest that the number of individuals in TN status could be approaching 100,000 annually. However, there is no reliable government data to support Senator Grassley's contention.

In fiscal year 2016, only 14,646 Mexican citizens applied for TN visas. The number of Canadians in TN status is not available due to the visa exemption.

As noted earlier, Canadians do not require a visa to enter the U.S. in TN status. Canadian admissions in the TN category are recorded by U.S. Customs and Border Protection (CBP). Admissions are normally recorded by CBP on the Form I-94 and land border admissions result in a default *multiple entry* I-94.[39] Individual Canadians are recorded for admission purposes multiple times, which make annual numbers unreliable. For example, a nurse who

[35] Normally, the permanent residence option will require a test of the U.S. labor market.
[36] Cheetham, Janet H. editor, *Immigration Practice and Procedure under the North American Free Trade Agreement* at 24 (American Immigration Lawyers Association 1995).
[37] GAO Report, *supra* note 34, at 10.
[38] 69 *Fed. Reg.* 11287 (March 10, 2004). The interim rule was effective on January 1, 2004.
[39] 8 CFR §235.1(h).

commutes daily from Windsor to Detroit could enter the U.S. 250 times a year. Three hundred such nurses could be recorded as up to 75,000 entries.

Between 2005 and March of 2010, DHS completed updates to computer systems at vehicular and pedestrian lanes at land border POEs along the Northern and Southwest borders that were previously omitted from the Form I-94 data.[40] In April 2013, CBP also automated the Form I-94 process for nonimmigrants admitted at air and sea ports. As part of this automation, CBP began generating electronic I-94s for short-term Canadian tourists and business travelers admitted at air and sea ports who previously had been exempted from the Form I-94 data.[41] Even with these improvements, multiple admissions remain an issue for tracking actual use of the TN category by Canadians.

For example, in 2016, an estimated 43 million nonimmigrants from all over the world were admitted to the U.S. with a Form I-94, which accounted for a total of 77 million I-94 nonimmigrant admissions. An estimated 43 million individuals were admitted once by CBP, while 12 million were admitted more than once.[42]

Annex 1603.D.4 provides that a Party to NAFTA may establish an annual numerical limit on TN professionals, but that limit must be established only after consultation with the other Parties to the agreement. In addition, a visa requirement can be imposed as a requirement for TN professionals under Annex 1603.D.3 but again the moving Party must consult with the other Parties to the Agreement. As to any numerical limit, under Annex 1603.D.7, the Party establishing the limit must consult with the affected Party (ies) to NAFTA three years after its imposition of the limit to determine when it shall no longer apply. Appendix 1603.D.4 of NAFTA provided that the numerical limit established for Mexican TN professional by the U.S. could last no more than 10 years from the date of the entry into force of NAFTA.

The regulations for TN category state that the U.S. Secretary of Labor may inform the USCIS Director that a strike or other labor dispute causing a work stoppage is in progress.[43] If the entry of a citizen of Mexico or Canada in TN status may adversely affect the settlement of any labor dispute or the employment of any person involved in the dispute, the U.S. may refuse to issue an immigration document authorizing the person's entry or employment.[44] Similar protections apply to citizens of Canada or Mexico using the E visa or L visa categories due to NAFTA modifications.[45]

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[40] Teke, John and Navarro, Waleed, "Nonimmigrant Admissions to the United States: 2016, DHS Annual Flow Report," at 3 (January 2018).
[41] *Id.*
[42] *Id.*at 2.
[43] 8 CFR §214.6(k).
[44] 8 CFR §214.6(k)(1).
[45] See 8 CFR §214.2(e)(22) and (l)(18), respectively.

THE VALUE OF RECIPROCITY AND DIPLOMACY

In March of 2017, the U.S. Chamber of Commerce published *The Facts on NAFTA*. In the report, it notes that trade with Canada and Mexico supports nearly 14 million jobs in the U.S., with about 5 million of these jobs related to the increase in trade created by NAFTA. In addition, with new market access and more defined rules developed via NAFTA, U.S. services exports to Canada and Mexico have tripled over 20 years rising from $27 billion in 1993 to $92 billion in 2014.

The Select USA website of the Department of Commerce (DOC) outlines statistics on foreign direct investment (FDI) in the U.S. by country.[46] The international market fact sheet for Canada in 2016 states:

- Canada is the second largest source of FDI in the U.S. with approximately $453.6 billion invested in the U.S.
- Canada is supporting 636,100 jobs in the U.S.
- Canada is expanding U.S. exports by $13.1 billion.
- Canada is supporting research and development by spending $864 million through U.S. affiliates of majority Canadian-owned firms in 2015.[47]

The international market fact sheet for foreign direct investment from Mexico in 2016 notes:

- Mexico's total 2016 stock in FDI in the U.S. approximately $34.4 billion.
- Mexico is supporting 79,900 jobs in the U.S.
- Mexico is expanding U.S. exports by $1.1 billion.
- Mexico is supporting research and development by spending $456 million through U.S. affiliates of majority Mexican-owned firms in 2015.[48]

Some hypothetical questions?

- What if Mexico or Canada decreased their investment in the U.S.?
- What if Mexico or Canada imposed visa limits or labor markets tests for NAFTA related visas?
- What if Mexico or Canada imposed biometric requirements for admission to and exit from Mexican and Canada?
- What if Mexico or Canada did not allow majority foreign ownership of businesses incorporated or established in their countries?

[46] https://www.selectusa.gov.
[47] https://www.selectusa.gov/servlet/servlet.FileDownload?file=015t0000000LKLr.
[48] https://www.selectusa.gov/servlet/servlet.FileDownload?file=015t0000000LKNE.

- What if Mexico or Canada required petitions to be approved and visas issued for all visas currently addressed in NAFTA?

Ending NAFTA would create a "virtual" wall between the United States and its neighbors. In the immigration law field, it is common to confront bureaucratic barriers to visa issuance and admission. For example, it is not unusual for consular officials to be unavailable to review visa denial or refusal issues or to impose seemingly interminable administrative processing delays and blame them on other agencies. CBP officers also have a variety of ways to delay determinations or apply inconsistent policies.

NAFTA contributes to cross-border mobility, creates U.S. jobs and increases investment in the United States. The U.S. should retain the benefits received and given by Most Favored Nation trading partners as an essential part of its efforts to be integrated in the global economy, particularly with neighboring Mexico and Canada. Losing the immigration benefits of NAFTA will harm U.S. workers, consumers and companies. It would be a lose-lose result.

About the Author

Kathleen Campbell Walker is a member of Dickinson Wright PLLC. She was national president of the American Immigration Lawyers Association (AILA) from 2007 to 2008. She is board certified in Immigration and Nationality law by Texas Board of Legal Specialization. In 2014, she was the recipient of the AILA Founder's Award in 2014, which is awarded from time to time to the person or entity who has had the most substantial impact on the field of immigration law or policy in the preceding period (established 1950). She has testified before Congress on matters of immigration policy and border security. She is board certified in Immigration and Nationality Law by the Texas Board of Legal Specialization She served on the 2009 Independent Task Force on U.S. Immigration Policy of the Council on Foreign Relations chaired by Thomas F. McLarty III and Jeb Bush.

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