North American Oil & Natural Gas Industry: Follow-up Perspectives on NAFTA[i]

API, AMEXHI and CAPP on NAFTA

The 750+ member companies of the American Petroleum Institute (API), Asociación Méxicana de Empresas de Hidrocarburos (AMEXHI), and the Canadian Association of Petroleum Producers (CAPP) support free trade. As negotiations continue to update the North American Free Trade Agreement (NAFTA), we reiterate that the current NAFTA is a success story for North American energy in all our countries. The prime objective of negotiating an updated NAFTA should be to respect the longstanding economic and supply chain efficiencies that have evolved over almost a quarter century of trade between our three countries. Simply said: "Do no harm."

We support a modernized NAFTA that enhances the North America energy success story; if it is not possible for the US, Canada and Mexico to agree on an updated NAFTA, we urge policy makers to retain the current NAFTA and all of its considerable mutual energy benefits that would be diminished greatly without a trilateral NAFTA. We do not support proposals such as a sunset clause or an ISDS "opt in/opt out" mechanism that would weaken stability and investment protection for long-term investments.

Achieving Objectives of Jobs, Affordable Energy and Energy Security through NAFTA

- ***Objective: Grow jobs in all three countries.***

  How: Maintain liberalized trade and facilitate cross-border investment through NAFTA in order to grow the pie, which increases jobs for all.

  Oil and natural gas markets across North America are increasingly integrated because NAFTA promotes cross-border investments and fully liberalizes flows of crude oil, natural gas, refined products, petrochemicals, and related goods and services used in the hydrocarbon industry onshore and offshore. For example, US exports of oil and natural gas – and US foreign investment in Mexico and Canada – support US jobs. The US supplies billions of dollars annually of manufactured goods, as well as services, to the oil and gas industries in Canada and Mexico.[1] US foreign investment in the Canadian and Mexican oil and natural gas sectors leads to more jobs in the US than if the US only supplied goods and services to its own oil and natural gas sector. With the bigger integrated North American energy market, the US share is commensurately larger. All of the above is also true for Canada and Mexico.

  - *Maintain NAFTA as a trilateral US-Mexico-Canada agreement and its provisions that enable liberalized trade and investment in all sectors, including energy.*

[1] Source: Canadian Energy Research Institute (CERI). 2017. *Economic Impacts of Canadian Oil and Gas Supply in Canada and the US (2017-2027).*

- ***Objective* – Keep energy affordable for consumers, and enhance energy security.**

***How*: Maintain NAFTA's commitments to market-based energy sectors, recognizing the long-term nature of the oil and natural gas projects.**

Through the bilateral Canada/US Free Trade Agreement (CUSFTA) of 1988, the US first achieved all of its energy free trade negotiating goals. This was extended in NAFTA, which is also now the foundation for expanding energy free trade North America-wide as Mexico opens its energy sector to foreign investment and free market forces in response to the success of NAFTA. The NAFTA framework for free and fair energy trade is well-established and stands as the greatest of trade success stories in US history.

NAFTA has underpinned technological revolution that has unlocked the potential of US oil and natural gas resources and attracted significant investment to the benefit of US citizens. Now that revolution is being expanded in Canada and Mexico, which provides the foundation for capital investment in the energy sectors of all three countries to be among the most attractive in the world. As a result, North American energy self-sufficiency, measured in terms of supply and demand for liquid fuels, is within reach as soon as 2020.[2]

The Mexican energy sector today presents significantly different conditions from those that prevailed when NAFTA was signed 24 years ago. In 1993, Mexico had a closed energy sector that did not allow foreign investment nor participation of the private sector. Today, as a result of the 2013 Energy Reform, Mexico's energy sector is open to foreign investment and protected by NAFTA while allowing the private sector to associate with state-owned companies. A modernized NAFTA will need to consider this crucial change and maintain these protections.

- *Encourage the consolidation of market-based energy reforms in Mexico – and a re-commitment by the US and Canada – by maintaining the liberalized trade flows and non-discriminatory market access afforded by NAFTA, with no exceptions for energy nor for any country (which are precisely the standards of market access in NAFTA's Chapter 3).*
- *Include market-based commitments for State-Owned Enterprises (SOEs), while allowing joint projects between them and non-state-owned companies. A modernized NAFTA that would include a chapter on SOEs must ensure that associations between the private sector and SOEs are not discouraged.*

[2] Source: Energy Information Administration, *Annual Energy Outlook 2017, Appendix A, Table A21*.

- ***Objective*: Level the playing field by continuing to make NAFTA an example where all must play by the same rules.**

  ***How:* Strengthen, rather than weaken, reciprocal commitments to fair and equitable treatment and to non-discrimination and the dispute resolution mechanisms in NAFTA – and focus on these standards rather than on trade deficits.**

  Growing energy markets across North America provide new and expanded markets for US refined products and petrochemicals in Canada and Mexico, especially with Mexico as the largest and fastest growing market for US natural gas exports. This growing market opportunity, which will enhance the US trade balance, is supported by the automatic liberalization of US natural gas exports under the US *Natural Gas Act* that requires a free trade agreement to be in place. This also requires, among other things, infrastructure investment across borders that requires investors to have confidence in the durability, predictability, and enforceability of NAFTA. Reciprocal strong investment protections and recourse to international Investor-State Dispute Settlement (ISDS) provide a higher degree of investment certainty for oil and natural gas projects that often involve investment timelines as long as 40 or more years.

  Energy flows in North America reflect the geology of where oil and natural gas are located and the most efficient way to supply energy demands across an increasingly even playing field for energy because of commitments made and kept by the US, Canada and Mexico. Energy trade deficits and surpluses do not measure the full value of energy free trade to meeting a vital need for competitive and secure energy supplies and also need to be placed in the context of the billions of dollars of goods and services trade that underpins this activity.

  - *Maintain NAFTA's commitments, such as investment protections of fair and equitable treatment as well as recourse to international arbitration for investors (which are precisely the strong investment protections and ISDS in NAFTA's Chapter 11 that all three countries have abided by since 1994).*

NAFTA's Mutual Energy Benefits

On energy, the US, Mexico and Canada are better off with NAFTA because NAFTA benefits energy workers, energy consumers and energy companies alike. NAFTA also facilitates regional energy security and represents increased revenues to all three governments. API, AMEXHI and CAPP look forward to continued dialog with our respective governments to find ways to preserve, if not ultimately strengthen, NAFTA and these mutual energy benefits it affords.

---

[i] This document does not represent a position of Petróleos Mexicanos, nor that of its subsidiary productive enterprises (Pemex), on the negotiation of international trade treaties; it is the mandate of the Mexican Secretary of Economy to coordinate international trade negotiations according to the Mexican International Trade Law (*Ley de Comercio Exterior*) and other applicable regulations.