

**CIGI-CSIS-PIIE Conference:
A Positive NAFTA Renegotiation, Part 2**

**Modernizing NAFTA:
E-commerce, regulatory cooperation,
and gender and human rights**

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E-Commerce (1)

Barriers to digital trade

- Requirement that foreign enterprises localize data and digital activity in order to compete in a country's markets
- Justifications:
 - Personal privacy and security
 - National security and law enforcement
 - Create jobs and economic activity

E-Commerce (2)

TPP is a good model to follow

- Protects cross-border data flows
- Prohibits the imposition of tariffs on electronic transmissions
- Prohibits the obligation for a business to locate specific computing facilities in exchange for market access
- Ensures that countries have laws and regulations that protect consumers (privacy and security, fraudulent & deceptive activities)
- Mechanism for member states to cooperate on a range of e-commerce related issues

Regulatory Cooperation (1)

- Differences in product regulation, licensing requirements, certification and conformity assessment represent significant barriers to trade
- SPP recognized the need for regulatory cooperation
- Today:
 - Canada-US Regulatory Cooperation Council
 - Mexico-US High Level Regulatory Cooperation Council

Regulatory Cooperation (2)

- CETA's chapter on regulatory cooperation is good model for NAFTA
 - Regulatory Cooperation Forum (integrate or federate the two existing Councils)
 - "Regulatory equivalence"
 - Regular engagement with stakeholders
- Cooperation should be compulsory in NAFTA, not voluntary, as in CETA

Gender and Human Rights (1)

- What is the link between free trade and human rights?
- WTO makes no mention of human rights
 - But human rights has been used as a justification to impose trade restrictions (e.g., Kimberley process)
- How can FTAs promote human rights?

Gender and Human Rights (2)

CETA

- Members reaffirm “their strong attachment to democracy and to fundamental rights as laid down in the Universal Declaration of Human Rights”
- Members recognize “the importance of international security, democracy, human rights and the rule of law for the development of international trade and economic cooperation”
- Annex 8-E: “With respect to Articles 8.16, 9.7 (Denial of benefits) and 29.6 (National security), the Parties confirm their understanding that measures that are ‘related to the maintenance of international peace and security’ include the protection of human rights.”

What does it mean in practice?

Gender and Human Rights (3)

CETA article 8.10

- “Each Party shall accord in its territory to covered investments of the other Party and to investors with respect to their covered investments fair and equitable treatment and full protection and security”
 - Para. 2(d): “targeted discrimination on manifestly wrongful grounds, such as gender, race or religious belief” is one of the grounds for breaching “fair and equitable treatment”

Integrate the Canada-United States Council for Advancement of Women

Entrepreneurs and Business Leaders into NAFTA, adding Mexico to the Council?

Centre for International
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Thank you.

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