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To withdraw North American Free Trade Agreement (NAFTA) “Make America Great Again”?

by Gerardo Reyes

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“DILIGITE JUSTITIAM QUI JUDICATIS TERRAM.” “Ye who judge the earth, give diligent love to justice”

To withdraw North American Free Trade Agreement (NAFTA)

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by Gerardo Reyes.

The International Trade Agreement between Canada, Mexico and United States of America known as NAFTA came into force in January, 1994¹. Globalization and trade necessities of the North American countries obliged them to discuss and approve the mentioned covenant. Some of the agreement commitments between the Signatories States are ²:

*“...STRENGTHEN the special bonds of friendship and cooperation among their nations...”,
“...CREATE an expanded and secure market for the goods and services produced in their territories...”,
“...CREATE new employment opportunities and improve working conditions and living standards in their respective territories...”,
“...PROTECT, enhance and enforce basic workers’ rights...”*

NAFTA created one of the world’s largest “free trade area”³. The strengthening of this free trade area bolstered the creation of new jobs for all three members and attracted investments from all over the world.

“When the States remove economic and trade obstacles between nations, the governments facilitate to the individuals an easier access to products that they couldn’t find inside their country, also when the mentioned obstacles have been removed the financial capacity of the citizens is gradually developing according with the attracted investments, and with the increased investments the creation of new jobs is favored”.

U.S. Government states that nowadays, NAFTA’s trade conditions with Canada and Mexico have supported over 140,000 small and medium sized businesses in the United States⁴. Six specific NAFTA objectives are described at chapter one, part one of the international document, the first three are:

*“...(a) eliminate barriers to trade in, and facilitate the cross-border movement of, goods and services between the territories of the Parties;
(b) promote conditions of fair competition in the free trade area;
(c) increase substantially investment opportunities in the territories of the Parties;...”⁵*

NAFTA, compromises its signatories to improve the North American People’s quality of life, by removing economical barriers. When the States remove economic and trade obstacles between nations, the governments facilitate to the individuals an easier access to products that they couldn’t find inside their country, also when the mentioned obstacles have been removed the financial capacity of the citizens is gradually developing according with the attracted investments, and with the increased investments the creation of new jobs is favored. This is how the states protect and ensure fundamental rights to their citizens through good trade policies.

1.- Article 2203 of North American Free Trade Agreement.

2.- North American Free Trade Agreement Preamble.

3.- The Organization for Economic Cooperation and Development (OECD) define “Free Trade Area” as “countries within which tariffs and non-tariff trade barriers between the members are generally abolished but with no common trade policy toward non-members”.

4.- <https://ustr.gov/trade-agreements/free-trade-agreements/north-american-free-trade-agreement-nafta>

5.- Article 102 (a), (b) and (c) of North American Free Trade Agreement.

According to the “U.S. Department of Commerce, International Trade Administration” between 1993 and 2003 USA exports increased 106% to MEX.⁶ Also, the same department affirm that “Mexico’s investment in the United States increased 280% from 1994 to 2002, while investment in the U.S. by non-NAFTA countries grew strongly by 185%”⁷ during the same period of time.

“Benefits of all parties, and direct American economic benefits are being threatened by the Republican Presidential Candidate, who calls NAFTA the “worst trade deal in history”.

On July 22, 2016, Barack Obama, the current President of the United States of America, recognizes that having a relationship with Mexico is so important. One achievement of the relation between the U.S. and Mexico today support six millions of jobs in America that depends on the trade with Mexico.⁸

Benefits of all parties, and direct American economic benefits are being threatened by the Republican Presidential Candidate, who calls NAFTA the “worst trade deal in history”⁹. The republican candidate also stated before the American mass media that he would increase 35% of Mexican importations to USA.¹⁰ It seems like a lie but this kind of comments raise racist behaviors against Mexicans.

The American general presidential elections of November 8, 2016¹¹ is an important date for the international trade agenda of United States. If American citizens vote for the Republican Party, almost all American International Trade Agreements may be modified under a guideline of races, without taking in consideration the real American needs.

Article 2205 of NAFTA gives the right of all the signatories parties to withdraw the Trade Agreement, but in this case America must provide a written notice of withdrawal to Canada and Mexico six months before the denunciation of the treaty.¹² The 45th president of United States of America will take the White House on January 20, 2017, so in case the new president wants to withdraw NAFTA, he or she could provide the notice of withdrawal in the very last days of January, subject to the American Congress approving the isolationist policy, USA could step out of NAFTA as early as July, 2017.

It is important to point out the “*Pacta Sunt Servanda*” principle¹³ of international treaties. This principle indicates that the parties must perform the international covenants in good faith, maybe it’s a reason why there is no specific penalty contemplated at NAFTA regulation in case that USA government decided to break the withdrawal rules and not recognize the trade regulation at the beginning of 2017. Nevertheless, Canada or Mexico can file a claim before the International Court of Justice in case they feel aggravated.¹⁴

6.- NAFTA 10 YEARS LATER, U.S. Department of Commerce, International Trade Administration, June 2004. http://www.trade.gov/mas/ian/build/groups/public/@tg_ian/documents/webcontent/tg_ian_001987.pdf

7.- Idem.

8.- <https://globalconnections.hsbc.com/mexico/es/articles/20-datos-interesantes-acerca-del-tlcan>

9.- <http://money.cnn.com/2016/07/06/news/economy/trump-nafta/>

10.- Idem.

11.- <http://www.eac.gov/assets/1/Documents/2016%20Election%20Calendar-2.pdf>

12.- Article 2205 of North American Free Trade Agreement.

13.- Article 26 of Vienna Convention on the Law of Treaties.

14.- Article 66 of Vienna Convention on the Law of Treaties.

If any signatory country of NAFTA decided to quit their current trade agreement, the North American territory would have a serious regression in their obligations of promote, fulfil and ensure human rights such as rights to work, access to water, food, medications, right to health and social security.

In conclusion, to withdraw NAFTA will definitely not make America great again, what makes America or all countries great is to protect and ensure fundamental rights, for instance, by investing in education, infrastructure and the creation of a tax policy that attracts foreign investors.

"If any signatory country of NAFTA decided to quit their current trade agreement, the North American territory would have a serious regression in their obligations of promote, fulfil and ensure human rights ..."

If the next president of the United States disagrees with current NAFTA rules, try to change or renegotiate the terms of the agreement, he or she has to address the American Trade Agenda in connection with the needs of American workers, companies and consumers, not under color skin arguments. A government has to review its policies and identify the field in which is failing, in order to give solutions in that matter and improve it citizen's life. The administration of any country must not consider race arguments against international trade policies.

Former Brazilian President 'Lula' da Silva to stand trial for corruption.

A Brazilian judge has decided that the corruption case against former Brazilian president Luiz Inacio Lula da Silva, his wife, and six others will move forward, according to state media. Agencia Brasil reports that Judge Sergio Moro, who's been leading a corruption probe at the state-run oil company Petrobras, ruled on Tuesday that there is enough evidence for Lula, as he is universally known, and the others to stand trial. Lula da Silva sent out a series of tweets after the charges were filed, calling them "fiction" and claiming he had "been a victim of extremely serious illegalities," according to the ex-president's defense. www.cnn.com 23/09/2016.

The FARC agree to hand in their weapons and become a normal political party; a referendum denies it. *Scenes from the Colombian guerrillas' last conference as an armed group.*

Delegates to the FARC's tenth conference deliberated on the fine points of an accord to end their 52-year-long war with Colombia's government, the culmination of four years of negotiations that took place in Havana. They debated its provisions for setting up a special justice system to try leaders who have committed war crimes, and laid out plans for becoming an unarmed political party. Their leaders will travel to Cartagena, on Colombia's Caribbean coast, to sign the peace agreement alongside President Juan Manuel Santos on September 26th. Colombia's citizens have voted on the deal in a referendum held on October 2nd. Despite the efforts and predictions, the referendum rejected accepting the peace signing. www.economist.com 23/09/16.

Anti-Brexit group lodges legal challenge over article 50 procedure.

A submission lodged in the court on Friday contains redacted sections where significant paragraphs are blacked out. The submission is a final "skeleton argument" from London law firm Bindmans on behalf of people challenging the government's decision to trigger article 50 without consulting parliament. The government is refusing to allow its legal opponents to reveal its explanation of why it ought to be able to use royal prerogative powers to trigger article 50. Article 50 of the Treaty on European Union says that any state may withdraw from the EU "in accordance with its own constitutional arrangements", but does not specify what those arrangements should be. The prime minister says it is up to her to give notice; the claimants argue that parliament's approval is required. www.theguardian.com 23/09/16.

Obama vetoes 9/11 bill allowing suit against Saudi Arabia.

US President Barack Obama on Friday vetoed a bill that would have allowed 9/11 victims and their families to sue Saudi Arabia. Congress overwhelmingly approved the Justice Against Sponsors of Terrorism Act earlier this year, with support from both parties for the bill that would allow federal suits against foreign nations determined to have had a hand in terror acts. www.jurist.org 24/09/2016.

London still top finance centre despite Brexit.

The Z/Yen 20th global financial centres index (GFCI) which is a survey that examines 87 financial centres in the world showed that London is still number one despite Brexit. It is expected that the next survey does show some changes the moment the effects of Brexit start affecting Great Britain more and their European rival financial centres do something about it. It is still uncertain which major European city will be the EU's next financial Centre with the contenders being Paris, Frankfurt, Dublin and Luxemburg, although it all points that in the end it will all be in between Paris and Frankfurt www.businessworld.ie 26/09/2016.

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