

An aerial photograph of a city, likely New York City, with a large body of water (likely the Hudson River) on the right and a dense urban area on the left. The image is used as a background for the text.

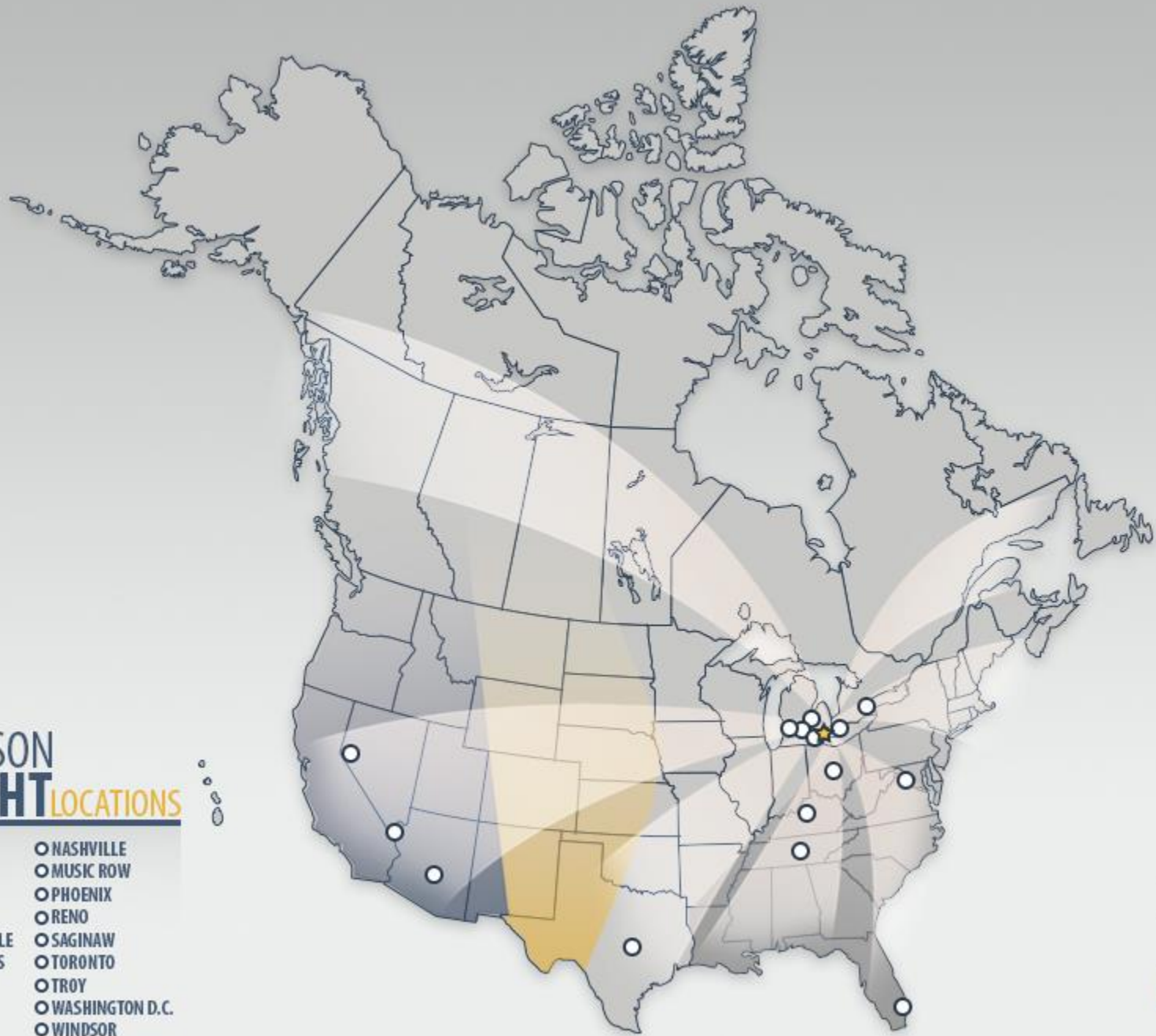
DICKINSON WRIGHT

NAFTA
NORTH AMERICAN FREE TRADE AGREEMENT

**NOW, NINETEEN or
NEVER?**

DICKINSON WRIGHT LOCATIONS

- ANN ARBOR
- AUSTIN
- COLUMBUS
- DETROIT
- FT. LAUDERDALE
- GRAND RAPIDS
- LEXINGTON
- LANSING
- LAS VEGAS
- NASHVILLE
- MUSIC ROW
- PHOENIX
- RENO
- SAGINAW
- TORONTO
- TROY
- WASHINGTON D.C.
- WINDSOR



THE LETTER PEOPLE OF NAFTA

WIN-WIN-WIN

WINNER take all

WIN to stop WITHDRAWAL

NAFTANEXT

NO NAFTA

NOTTY NAFTA



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NAFTA NEXT PILLARS

1. TIMING & TEMPO
2. TONE AND TENOR
3. TARGETS AND TOPICS

and now ... Tariffs



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TIMING AND TEMPO-OVERVIEW

- “Tear It Up” = Withdrawal
- “Tweak It” = Do No Harm now “Skinny”
- Trade Promotion Authority 2015 = Full Scale Review

Then, gone, and back again . . . “Twin it” or “two parallel bilateral deals.



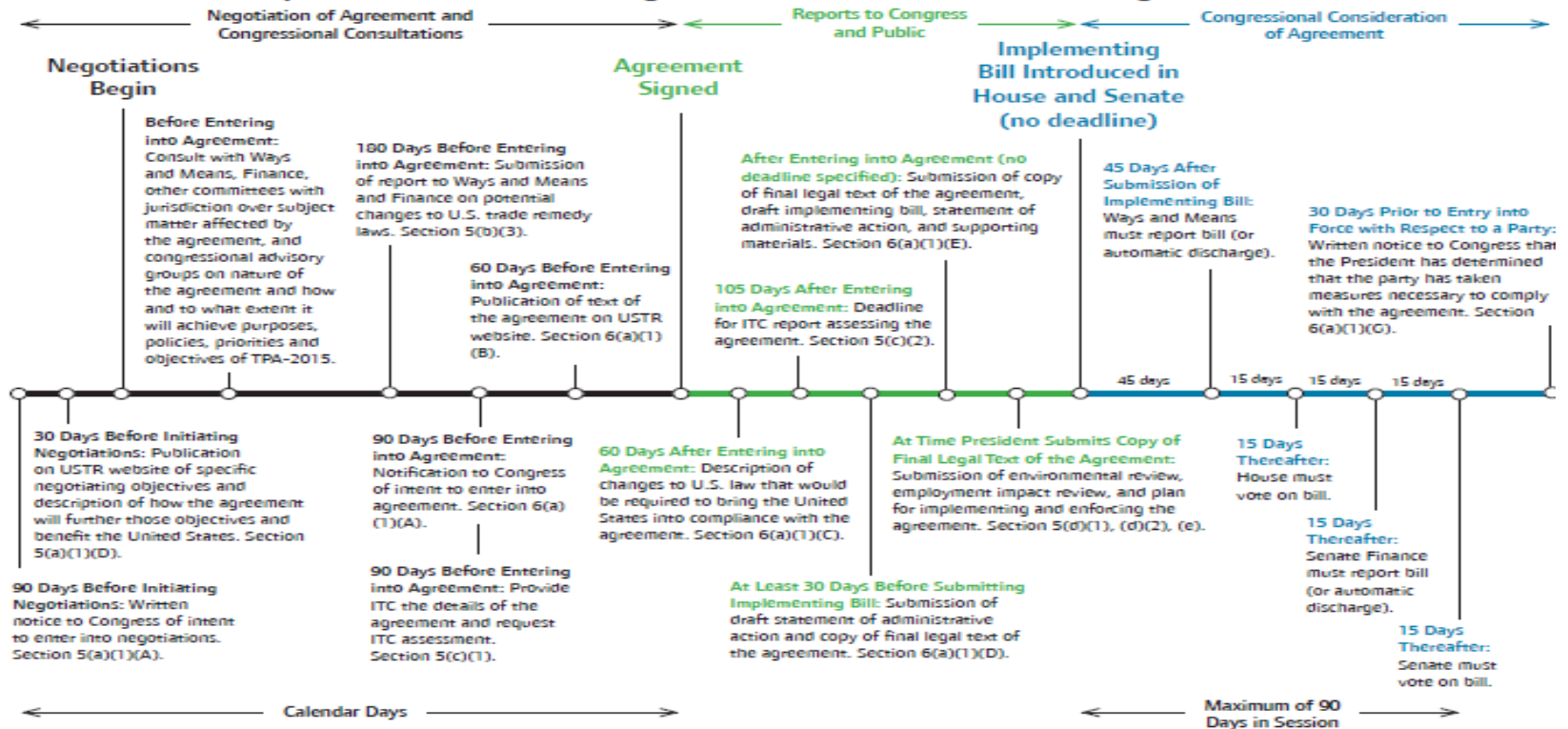
TIMING AND TEMPO-OVERVIEW

- TPA-2015 (aka “fast track”) expires on June 30, 2018
- Can be extended by POTUS unless an “EXTENSION DISAPPROVAL RESOLUTION” in either Chamber to House Ways and Means or Senate Finance with expedited procedures (at least 30 days)
- Extension would be to July 1, 2021



TIMING AND TEMPO-OVERVIEW

Timeline and Requirements for Trade Agreements Under TPA-2015 Legislation



Also required by TPA-2015, under Section 5(f), titled "Other Reports,":

- 1) **REPORT ON PENALTIES:** not later than one year after imposition of a penalty or remedy to which this Act applies, the President shall submit to the House Ways and Means and Senate Finance Committees a report on the effectiveness of the penalty or remedy applied, including its effectiveness and any adverse consequences on parties or interests not party to the dispute; and
- 2) **REPORT ON IMPACT OF TRADE PROMOTION AUTHORITY:** not later than one year after date of enactment, and not later than five years thereafter, the USITC shall submit to House Ways and Means and Senate Finance Committees a report on the economic impact of all trade agreements with respect to which Congress has enacted an implementing bill under trade authorities procedures since January 1, 1984.

DW

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TPA-PHASE I

- Consultations w/ Congressional Advisory Groups on Negotiations
- 90 Day - Notice of Intent to Initiate Negotiations (May 18, 2017) (“Modernize”)
- 30 Days – USTR Statement of Negotiating Objectives (July 17, 2017)
- Canada and Mexico processes in July and August



TPA-PHASE II

- USTR Ongoing Consultations w/ Any Member of Congress
- POTUS must meet w/ Congressional Advisory Groups on Negotiations, if requested
- USTR and Agriculture and Import Sensitive Products, Fishing, & Textile Consultations



TPA-PHASE II

- Congress Not Truly Engaged until September/October 2017

WATCH !!!

**DISAPPROVAL RESOLUTION FOR
FAILURE TO CONSULT**



TPA-PHASE II

- Trade Remedy Notice Must be Filed at least 180 Days before entering into the Agreement.

WATCH!!!

**DISAPPROVAL RESOLUTION ON TRADE
REMEDY NOTICE**



TPA-PHASE II

- POTUS cannot “Agree” to any new deal before March 21, 2018 (180 days from Sept. 22, 2017) via trade remedy notice
 - Dispute Resolution, Seasonal Growers, Safeguards
- POTUS requested extension by April 1, 2018 (for all trade agreements)
 - Advisory Committee on Trade Policy & Neg and ITC Economic Impact Report filed on June 1



TPA-PHASE II

If “Agreement” may be “In Principle”:

- 90 Days Prior to Agreement Request ITC Assessment (by 105 days after Agreement signed)
- 90 Days Prior to Agreement Notify Congress
 - 60 Days Prior to Agreement Post the Text

All is Past June 30 / July 1



THE LETTER PEOPLE OF NAFTA

Agreement in Principle (AIP)

- Symbolic?
- Substantive?
- “Shut-down” Agreement?

*Agreement in Passing or Agreement Intended
to Pass Congress?*



TPA-PHASE II ???s

- Will Congress Disapprove Extension b/c of tariffs? Other actions?
- Way to Pull the Plug on NAFTA
Modernization or Compel 2205 Withdrawal?
- Right in the Middle of U.S. Primary Season



TPA-PHASE III

- Agreement Signed:

- 60 days – Description of US Laws that Need to Be Changed
- 105 days – ITC Report Due
- 30 days before Implementing Bill- Draft statement of administrative action, final legal text
- Text, Implementing Bill, Statement of Administrative Action, Environmental Review, Employment Impact Review, and Plan for Implementation

No Dates – THIS IS THE GREY AREA!!!



TPA-PHASE IV

- To Congress:

“FAST TRACK” – Maximum of 90
Days in Session

Right in the Middle of the U.S.
General Election and maybe not
enough time in Lameduck



TIMING & TEMPO – OTHER FACTORS

- Ontario Provincial Elections June 7, 2018
- Mexico National Elections July 1, 2018 (Lameduck up to Sept.)
- US Primary elections – TX and IL in March, May/June (incl. Ohio, SC, W. VA), August (incl. MI, WI, MN, AZ, FL)
- Quebec Elections – October 1, 2018
- US Elections Nov. 6, 2018
- CDN Federal Elections in 2019



TARGETS & TOPICS (ROUNDS I-VII)

“RENOVATION”

1. Templates (“Freshcoat” of Paint)
2. Upgrades
3. Rebalancing (“Knocking Down Walls”)



TARGETS & TOPICS (“FRESHCOATS”)

1. Small and Medium-Sized Enterprises
 (“Parked”/Done in Round III)
 - NAFTA Trilateral SME Dialogue
2. Competition (“Parked” before Round IV)
3. Technical Barriers to Trade (TBT)
4. Anti-Corruption
5. Good Regulatory Practices



TARGETS & TOPICS (“FRESHCOATS”)

6. Sanitary and Phyto-Sanitary Measures (SPS)
7. Telecommunications
8. Environment
9. Financial Services
10. Chemical and Food Patents/Formulas



TARGETS & TOPICS ("MODERNIZATION")

10. Digital Trade in Goods and Services

- “TPP Plus Proposal”

11. Customs and Trade Facilitation

- But not de minimis / e-commerce \$ thresholds

12. Energy

- Mexico on Regional Coop. Separate energy chapter unclear



TARGETS & TOPICS (“WALLS”)

13. Automotive Rules of Origin

- 85% N.American Content
- 70% Steel & Aluminum
- Focus Value / Body in White
- Wage

14. Textiles

- Elimination of tariff preference levels (TPLs) and move to short supply list as in DR-CAFTA



TARGETS & TOPICS (“WALLS”)

15. Supply Management

- Elimination of National Ingredient Strategy / Class 7 / Ultrafiltered Milk
- Phase-in 5% increase for dairy, poultry, eggs annually until 0 quotas by 10 years

16. Labor

- Canada-International Agreements for Mexico and Prevent US Right To Work Federal Law targets
- No wage request but auto ROO



TARGETS & TOPICS (“WALLS”)

16. Dispute Resolution

- Chapter 11 / ISDS Opt-in / US has already advised opt-out
- Chapter 19 elimination
- Chapter 20 non-binding

17. Seasonal Growers

18. Government Procurement

- \$ for \$ match



TARGETS & TOPICS (“WALLS”)

19. Trade Deficit Reduction

20. Sunset Review Clause

- Expires after 5 years unless renewed (Congress?)
- May be tied back to deficit reductions



TARGETS & TOPICS (“NEW STUFF”)

21. Intellectual Property

22.X-Border Trucking

23.Currency

24.Gender

25.First Nations/Aboriginal/Indigenous

26.Other ROO/Annexes / Front of Package

27.Temporary Entry for Business Persons



TARGETS & TOPICS (AUTO ROO)

- Initial US Proposal –
 - 85% RVC (up from 62.5%)
 - 50% Domestic Content
 - Substantial Transformation Rules
 - 1-3 year phase-in



TARGETS & TOPICS (AUTO ROO)

- Spring US Presentation –
 - 75% RVC (up from 62.5%)
 - 70% Steel, Aluminum, and Glass from Region
 - North American Avg Wage (40%/45%)
 - 15%/20% for R&D, Marketing, Sales
 - 2,4,9 year phase-in w/ long AV/EV period



TARGETS & TOPICS (AUTO ROO)

- Spring US Presentation –
 - 70% RVC (up from 62.5%)
 - 30% Steel 20% Aluminum from Region
 - North American Avg Wage (15%/20%)
 - 15%/20% for R&D, Marketing, Sales
 - 10year phase-in w/ long AV/EV period



TENOR AND TONE

- POTUS Trump – Withdrawal
- U.S. Congress
- Canada Response
- Mexico Response



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THE POLITICS

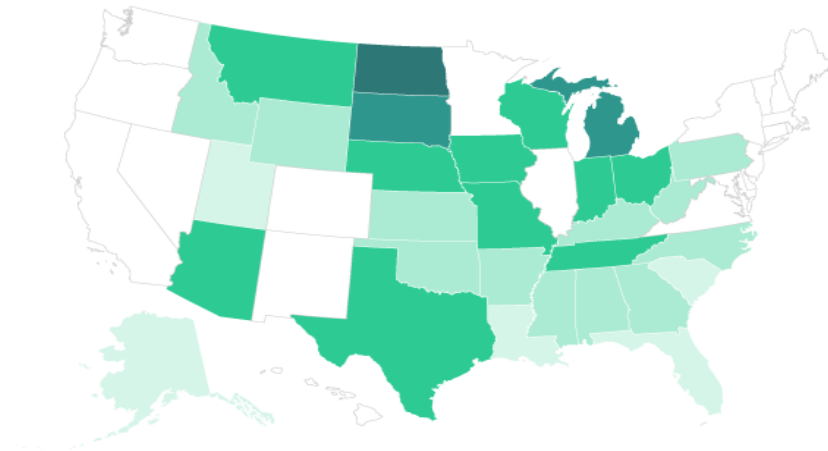
Trump States Depend Heavily on Nafta

Many states that voted Republican send a large share of their total exports to Mexico and Canada.

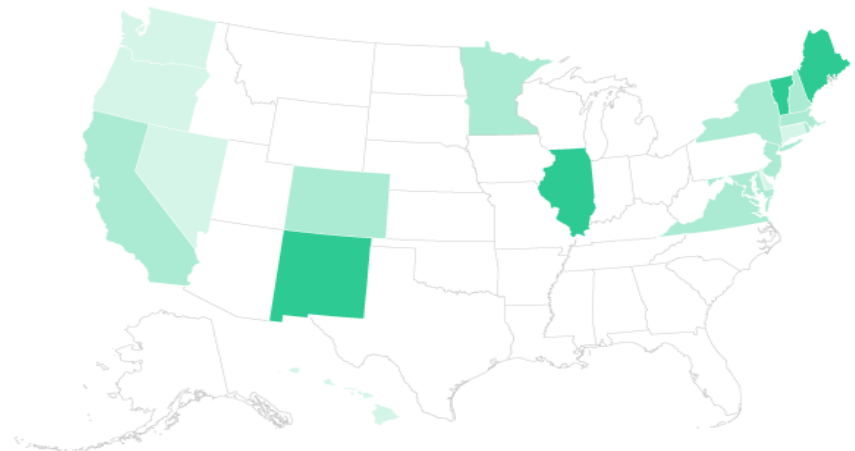
Share of 2016 exported goods to Canada and Mexico



States won by Trump



States won by Clinton



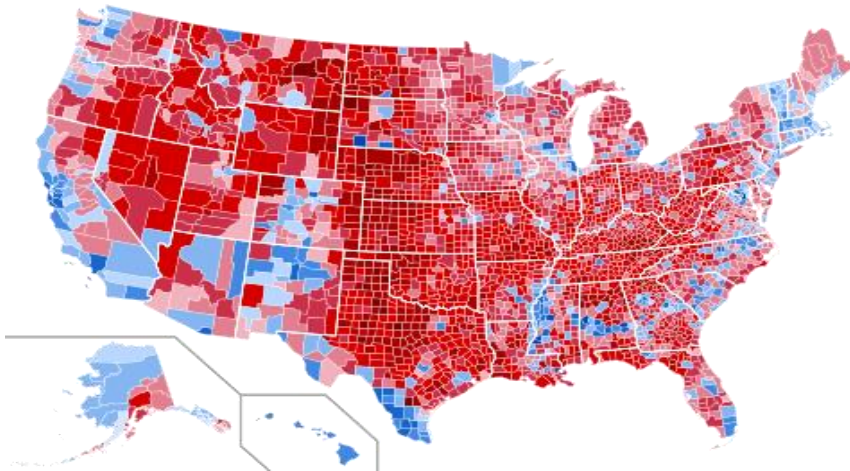
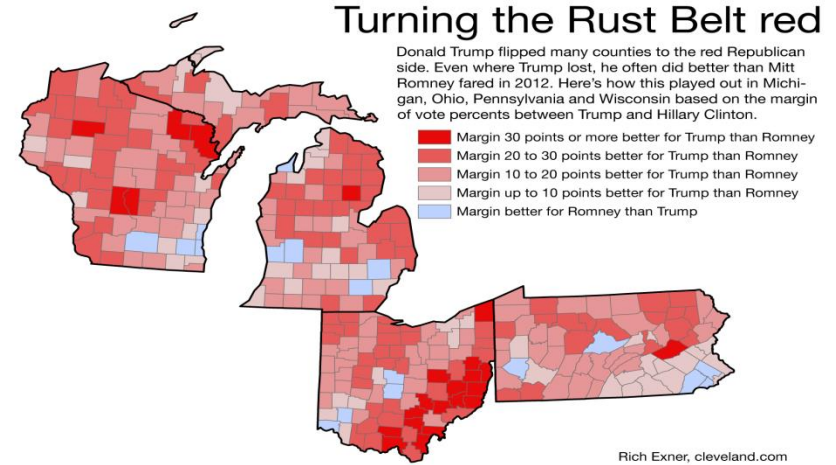
Sources: U.S. Census Bureau, U.S. Electoral College

Bloomberg



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THE POLITICS



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TENOR AND TONE-OUTCOMES

- Procedural and Political Calendar Closed
- May be an attempt at “agreement” in June, but will not be ratified in 2018
- “Skinny” Prospects are low
- “Twinning” w/out withdrawal is Tactic as opposed to Transformational
- Tariffs
- Canada and Mexico “get tough” strategy



TENOR AND TONE-OUTCOMES

- Late June / July deal on Auto ROO and other concessions to have auto tariffs lifted. Will continue to work on deal with new Mexico government and GoC.
- Agreement after midterms; ratified in early 2019
- Or 2020 or Never

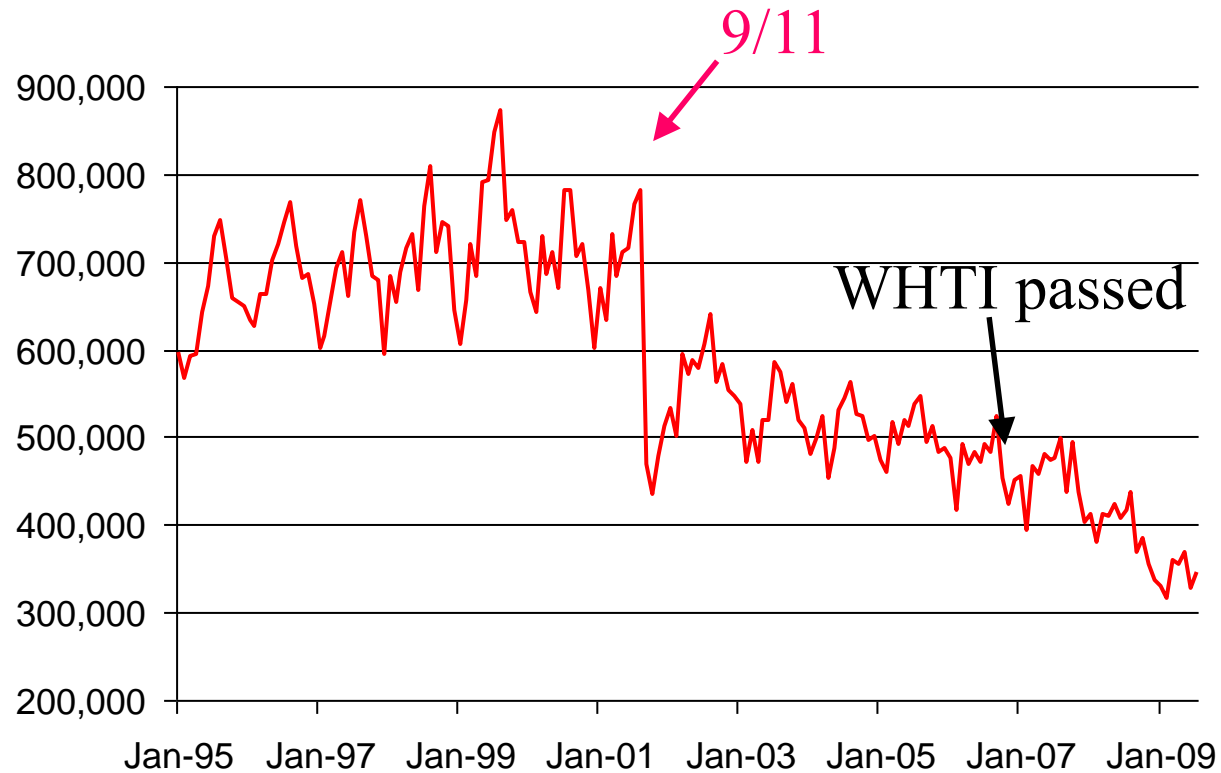


\$\$\$ SLIDE

- 70% Agreement in Passing w/
potential to ramp up in late 2018
but more likely 2019
- 20% Tweak Deal
- 10% Withdrawal before Midterms



STATUS QUO NO



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WHAT CAN I DO?

- **KNOW YOUR PRODUCT/SUPPLY, VALUE, INNOVATION CHAIN?** Where do I rely on NAFTA preferences?
- **DETERMINE WHERE MFN** or other rate changes would apply.
- **RENEW, RENEW, RENEW** all certifications, immigration issues, etc.
- **STAY INVOLVED** This isn't going away.



QUESTIONS AND DISCUSSIONS



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