# U.S. to Canada: Deal or No Deal?

Keith Johnson

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With the framework of a U.S.-Mexico trade deal in hand, the United States is in the final stretch of talks with Canada to update the existing, three-way North American Free Trade Agreement. As in all trade talks, nothing is settled until everything is settled, and plenty of questions remain about the final shape of America's new trade relationship with its two neighbors.

Here are the ways that the trade wrangling could still play out—and what that could look like over the next six months.

1. **Canada Joins the New Trade Deal**

This is the outcome that everybody—U.S. trade negotiators, Canada's government, Mexico, and most of the U.S. Congress—wants to see. It will require a heroic, last-minute negotiating breakthrough by the end of this week to work out lingering differences between Canada and the United States on a range of contentious trade issues.

Despite the time pressure, and U.S. President Donald Trump's threats to slap additional tariffs on Canada if it doesn't play ball, there are reasons for optimism. The United States and Mexico have apparently resolved some big outstanding issues, such as content requirements for auto production and a new investment dispute settlement system.

But for the free trade pact to bear its full fruits, it needs to be a three-way deal, because that is what has created so much growth in manufacturing, especially in autos. "That ecosystem is paramount," said Tori Whiting, a trade expert at the Heritage Foundation.

Canadian officials laud what they call good-will from the U.S. side, and negotiators from both countries focused on technical questions until late Wednesday, before talks resumed on Thursday.

"I think there's a pretty good chance over the next several days that we have an agreement in principle," said Simon Lester, a trade expert at the Cato Institute. Then, the two sides would have about a month to iron out the fine print on a final deal.

Of course, some big hurdles remain. Canada has long resisted U.S. demands on several key areas, including access to its dairy market and copyright protections for products like pharmaceuticals. There are still outstanding questions on thorny issues such as the periodic review of the trade pact that the United States and Mexico hammered out, as well as dispute settlement schemes for investors. Prime Minister Justin Trudeau warned Wednesday that Canada would rather have no deal than a bad deal.

Finally, Canada has federal elections next year, making any big Liberal concessions to the unpopular Trump administration a potential political liability.

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If Canada and the United States can't reach a deal by this weekend, the White House says it's willing to take a bilateral deal with Mexico over nothing. Mexican officials have said they prefer Canada be included but they'll settle for a free trade pact with the United States alone. The White House wants to seal the current deal by Sept. 1 so that the outgoing Mexican president can sign it before he leaves office.

But a bilateral deal would raise plenty of political questions. Given the time needed for final approval in the United States, it's unlikely to be ready until after the new left-leaning Mexican president, Andrés Manuel López Obrador, takes office in December.

"I don't know why it is such a life or death thing for [outgoing Mexican President Enrique] Peña Nieto to sign this, especially if it risks having the whole agreement unravel," said Antonio Ortiz-Mena, a former Mexican trade negotiator now with the Albright Stonebridge Group.

3. **Congress Will Play the Biggest Role**

There are even bigger political question marks in the U.S. Congress. Lawmakers prefer an update to the existing, three-way trade deal that includes Canada, over a separate and much smaller trade pact with just Mexico.

But Congress will get to review the agreement only after the November midterm elections. If Democrats make gains in the House of Representatives, as polls project, the political calculus will change, too.

"The administration has to get political agreement, they need to get Congress on board, and who that Congress is, is important," Lester said.

There are also tricky procedural questions if the White House sends Congress a bilateral deal with Mexico rather than a new NAFTA. Congress granted the White House authority last year to negotiate a three-way deal, not a bilateral accord with Mexico.

Under "fast track" trade promotion authority, the White House can work out a trade deal and send it to the Hill for a simple up or down majority vote with no changes to the text. If Congress decides that the White House doesn't have fast-track authority, then it can make whatever changes it wants to the text, and the legislation will require 60 votes to pass in the Senate. Key voices on trade like Pennsylvania Republican Sen. Pat Toomey have made it clear that a bilateral deal with Mexico would not pass muster with Congress.

"Without Trade Promotion Authority, any submission can become a mess. It would be a much more difficult process and take a long time," said Whiting, of Heritage.

Congress would also have a big role to play in fleshing out the contours of the new trade deals—even if Canada is seemingly out in the cold.

While Trump can declare his intention to withdraw from the existing NAFTA, only Congress can actually unwind all the laws that turned that trade agreement into reality. And while Congress is drafting that new legislation, it could also resuscitate the 1987 free trade deal between the United States and Canada or split off the Canada-specific parts of the existing NAFTA accord and keep them active.

That means that, even if talks broke down this week between Washington and Ottawa, Congress could still salvage free trade between the United States and Canada.

4. **Regardless, the new trade landscape will be less beneficial.**

Whether the United States goes ahead with a bilateral deal or reworks NAFTA, the agreements already worked out with Mexico promise to create problems for the single biggest sector in cross-border trade: the auto sector.

Under the new agreement, cars built in North America will have to include more North American-made content than they do today to enjoy tariff-free travel across borders. The new agreement also requires more work in Mexico to be done by higher-paid workers than at present. That is all part of the Trump administration's effort to level the playing field for U.S. autoworkers.

Some automakers may be able to rejigger their supply chains to meet the tougher new requirements with minimal cost. But others may find that it is cheaper to source automotive components from other countries. Under current law, cars from outside North America (or cars that don't meet the local content requirements) pay a tiny 2.5 percent tariff to enter the U.S. market. So as things stand today, many auto companies would likely find it easier and cheaper to outsource manufacturing rather than beef up U.S. operations.

To prevent that from happening, the Trump administration is threatening to impose additional tariffs on imported autos. The agreement with Mexico includes the specter of tariffs on cars that don't meet the new content requirement, as well as on excess Mexican production.

The threat of across-the-board tariffs on imported cars and car parts from Canada, Europe, and Asia looms even larger. The Commerce Department is finalizing a so-called section 232 investigation into the alleged national security threat from imported cars, and it could decide to levy tariffs of 20 or 25 percent on imported cars.

Raising the cost of cars and car parts would hit U.S. consumers hard, adding thousands of dollars to the cost of every new car. Studies suggest it would also destroy hundreds of thousands of U.S. auto jobs, since the U.S. industry would be less competitive globally. Slapping tariffs on auto imports would also imperil trade deals with South Korea and the European Union.

"If they go ahead with the section 232 tariffs on autos, they will destroy everything they have been doing," said Lester, of Cato.

Ultimately, after a year of talks and hundreds of hours of feverish haggling, trade experts see little real upside to what's been rolled out this week.

“All else being equal, the new trade area will be more complex, less efficient, and less competitive, and North America will be less attractive for foreign investment,” Ortiz-Mena said.