

Canada scrambles as U.S., Mexico ink NAFTA pact

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August 27, 2018 – *The Globe and Mail*

The U.S. and Mexico have reached a sweeping deal to overhaul the North American free-trade agreement and are pressing Canada to accept it by the end of this week or risk getting kicked out of the continental trade pact.

Foreign Minister Chrystia Freeland is cutting short a European trip and heading to Washington on Tuesday in a bid to salvage the trilateral agreement after its negotiating partners arrived at a deal without Canada at the table.

The wide-ranging agreement unveiled on Monday includes a “sunset clause” that would see NAFTA ended in 16 years unless all countries agree to keep it; new auto-industry rules designed to move auto-manufacturing jobs out of Mexico and into the United States; changes to intellectual-property rules and an increase to the amount of American goods Mexican consumers can buy online without paying duties.

U.S. Trade Representative Robert Lighthizer told reporters the renegotiated deal also removes Chapter 19, a key dispute-resolution clause that has protected Canadian softwood-lumber exports from punitive U.S. tariffs.

Now, Canada must decide whether to accept a deal that it largely did not negotiate or be blamed for further prolonging talks, and risk that the United States and Mexico make good on their threats to try to move forward with a two-way deal.

U.S. President Donald Trump threatened to impose tariffs of 25 per cent on Canadian-made vehicles – a move projected to kill hundreds of thousands of jobs in both countries – if Ottawa did not reach an agreement on NAFTA.

“One way or another, we have a deal with Canada. It will either be a tariff on cars, or it

will be a negotiated deal,” he said at an Oval Office announcement of the agreement with Mexico. “A tariff on cars is a much easier way to go. But perhaps the other would be much better for Canada.”

American and Mexican officials have been negotiating in Washington without Canada for the past month. Canada and Mexico had insisted that the talks focused only on U.S.-Mexico bilateral issues that did not require Canadian participation. And Canada and Mexico have long had an informal agreement not to reach separate deals with the United States, said people with knowledge of the countries’ back-channel discussions. But Mexico has made a full deal with the United States, covering nearly every aspect of NAFTA and going far beyond bilateral matters.

Canadian officials have repeatedly said they would never allow Chapter 19 to be cut from the deal, and that a sunset clause, which the United States originally demanded kick in after five years, was also a red line they would not cross.

Canadian sources said they were unsure what the Mexicans had agreed to on Chapter 19 but stressed that a U.S.-Mexico deal does not preclude Canada from negotiating to keep Chapter 19 in. One source said the Mexicans have always told the Canadians that they support Chapter 19, and said Mr. Lighthizer was just trying to increase pressure on the Canadians.

The provision has been a lynchpin of Canada-U.S. free-trade relations for 30 years: In 1987, Canada refused to sign the trade pact that preceded NAFTA until the Americans agreed to it.

U.S. and Mexican industry sources briefed on the talks said the United States cut Canada out

as a divide-and-conquer strategy, because it finds Canada harder to negotiate with than Mexico. One Canadian source said Mr. Lighthizer also does not get along with Ms. Freeland. The Foreign Minister asked Mr. Lighthizer on Friday, before the deal with Mexico was concluded, if she could come to Washington to meet with him, the source said, but he turned her down.

Two senior U.S. officials, who were not authorized to speak publicly on the matter, said the Trump administration would proceed with a bilateral trade pact with Mexico if it cannot reach a deal with Canada. The White House is aiming to finish a deal by Friday: This would allow it to give Congress 90 days notice of the new pact, which would enable Mexican President Enrique Peña Nieto to sign it before he leaves office Dec. 1.

Mexican Foreign Minister Luis Videgaray said he preferred a three-way agreement with Canada, but that Mexico was willing to cut Canada out if necessary.

“There will be a free-trade agreement with the United States regardless of whether Canada continues or not,” he said at the Mexican embassy in Washington on Monday afternoon.

Prime Minister Justin Trudeau’s office tried to put a positive spin on the talks, describing a Monday telephone conversation with Mr. Trump as “constructive” and saying Mr. Trudeau hopes for “a successful conclusion of negotiations.”

Whether the United States and Mexico could actually cut Canada out and sign a bilateral deal is an open question. Mr. Trump’s current negotiating mandate from Congress is for a three-way deal and he might have to spend several months consulting legislators on a bilateral agreement before moving forward with one.

But the threats from the United States and Mexico on Monday nonetheless turned up the pressure on Ms. Freeland. And Canada is

certain to have a hard time swallowing some of the provisions that its trading partners negotiated without it.

The senior American officials said the United States and Mexico had reached a compromise on Mr. Lighthizer’s demanded five-year sunset clause: Instead, the new deal will be in place for 16 years, with an option every six years for the countries to either extend it for another 16 or renegotiate it. Chapter 11, which allows corporations to sue governments for unfavourable business decisions, will be scaled back so it can only be used by companies in key industries, such as oil and gas.

Canada will likely have to make major concessions on its protectionist system of supply management in the dairy sector, which guarantees incomes for Canadian producers by limiting foreign-market access with hefty tariffs. Former prime minister Brian Mulroney, a key trade adviser, has told Mr. Trudeau that there is no chance of a NAFTA deal unless there is movement on supply management, one source said.

Mexico’s most serious concession, however, may turn out to be advantageous for Canada: Mexico acquiesced to Mr. Lighthizer’s demand that 40 per cent to 45 per cent of the content of vehicles made in North America must come from factories where workers earn at least US\$16 an hour, damaging Mexico’s ability to attract auto plants with wages of US\$4 an hour while helping the United States and Canada attract investment instead. Also, 75 per cent of the content of North American vehicles must come from within the NAFTA zone, up from 62.5 per cent under current rules.

Flavio Volpe, president of the Automotive Parts Manufacturers of Canada, said these requirements will be workable for the industry.

The Conservative Party accused Mr. Trudeau of mishandling negotiations by letting Mexico and the United States cut a deal without it.

“Canada is on the outside looking in while Canadian jobs hang in the balance,” Leader Andrew Scheer tweeted. Foreign-affairs critic Erin O’Toole said in a statement that “Mexico has usurped our role as the key U.S. trade partner.”

The trilateral NAFTA negotiations, which began a year ago this month, have also long

seen tensions between the United States and Canada. Sources briefed on the talks have said the Americans were surprised that Canada rejected its demands in the early stages of negotiations – particularly on autos, where the United States expected to be aligned with Canada in demanding concessions from Mexico.