

U.S. and Mexico tentatively set to replace NAFTA

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WASHINGTON — Snubbing Canada, the Trump administration reached a preliminary deal Monday with Mexico to replace the North American Free Trade Agreement — a move that raised legal questions and threatened to disrupt the operations of companies that do business across the three-country trade bloc.

President Donald Trump suggested that he might leave Canada, America’s No. 2 trading partner, out of a new agreement. He said he wanted to call the revamped trade pact “the United States-Mexico Trade Agreement” because, in his view, NAFTA had earned a reputation as being harmful to American workers.

But first, he said, he would give Canada a chance to get back in — “if they’d like to negotiate fairly.” To intensify the pressure on Ottawa to agree to his terms, the president threatened to impose new taxes on Canadian auto imports.

Canada’s NAFTA negotiator, Foreign Minister Chrystia Freeland, is cutting short a trip to Europe to fly to Washington on Tuesday to try to restart talks.

“We will only sign a new NAFTA that is good for Canada and good for the middle class,” said Adam Austen, a spokesman for Freeland, adding that “Canada’s signature is required.”

“There is still a great deal of uncertainty — trepidation, nervousness — a feeling that we are on the outside looking in,” said Peter MacKay, a former Canadian minister of justice, defense and foreign affairs who is now a partner at the law firm Baker McKenzie.

Critics denounced the prospect of cutting Canada out of a North American trade



AP Photo/Evan Vucci

President Donald Trump talks on the phone with Mexican President Enrique Pena Nieto, in the Oval Office of the White House, Monday in Washington. Trump is announcing a trade “understanding” with Mexico that could lead to an overhaul of the North American Free Trade Agreement. Trump made the announcement Monday in the Oval Office, with Mexican President Enrique Pena Nieto joining by speakerphone.



AP Photo/Luis Alonso Lugo

United States Trade Representative Robert Lighthizer, front left, and Mexican Secretary of Economy Idelfonso Guajardo, front right, walk to the White House on Monday.

pact, in part because of the risks it could pose for companies involved in international trade. Many manufacturers have built complex but vital supply chains that cross all three NAFTA borders.

Trump was quick to proclaim victory, though, pointing to Monday’s surge in stock prices, which was

fueled in part by the apparent breakthrough with Mexico.

“We just signed a trade agreement with Mexico, and it’s a terrific agreement for everybody,” the president said. “It’s an agreement that a lot of people said couldn’t be done.”

Trump has frequently condemned the 24-year-

old NAFTA trade pact as a job-killing “disaster” for American workers. NAFTA reduced most trade barriers between the three countries. But the president and other critics say it encouraged U.S. manufacturers to move south of the border to exploit low-wage Mexican labor.

The preliminary deal with Mexico might encourage more manufacturing in the United States. Yet it is far from final. Even after being formally signed, it would have to be ratified by lawmakers in each country.

The U.S. Congress wouldn’t vote on it until next year — after November mid-term elections that could end Republican control of the House of Representatives.

“There are still a lot of questions left to be answered,” MacKay said. He noted, for example, that Trump said nothing Monday about dropping U.S. tariffs on

Mexican or Canadian steel — tariffs that were imposed, in part, to pressure those countries to reach an agreement on NAFTA.

But at least initially, it looks like at least a tentative public-relations victory for Trump, the week after his former campaign manager was convicted on financial crimes and his former personal attorney implicated him in hush money payments to two women who say they had affairs with Trump.

Before the administration began negotiating a new NAFTA a year ago, it notified Congress that it was beginning talks with Canada and Mexico. So Monday’s announcement raises the question: Is it authorized to reach a deal with only one of those countries?

A senior administration official, who briefed reporters on condition of anonymity, said yes: The administration can tell Congress it had reached a deal with Mexico — and that Canada is welcome to join.

But other analysts said the answer wasn’t clear. “It’s a question that has never been tested,” said Lori Wallach, director of the left-leaning Public Citizen’s Global Trade Watch.

Even a key Trump ally, Rep. Kevin Brady, the Texas Republican who is chairman of the House Ways and Means Committee, expressed caution about Monday’s apparent breakthrough. Brady said he looked forward “to carefully analyzing the details and consulting in the weeks ahead to determine whether the new proposal meets the trade priorities set out by Congress.”

And the No. 2 Senate Republican, John Cornyn of Texas, while hailing Monday’s news as a “positive step,” said Canada needs to

be party to a final deal.

“A trilateral agreement is the best path forward,” Cornyn said, adding that millions of jobs were at stake.

And there are political reasons to keep Canada inside the regional bloc:

“Mexico will have a difficult time selling ‘Trump’s deal’ back home if Canada does not think it is a good deal,” said Daniel Ujcz, a trade attorney with Dickinson Wright PLLC. “It will appear that Mexico caved.”

Indeed, Mexico has said it wants Canada included in a deal to replace NAFTA. But Foreign Minister Luis Videgaray told reporters that “Mexico will have a free trade agreement regardless of the outcome” of U.S.-Canada negotiations.

The Office of the U.S. Trade Representative said Monday that Mexico had agreed to ensure that 75 percent of automotive content be produced within the trade bloc (up from a current 62.5 percent) to receive duty-free benefits and that 40 percent to 45 percent be made by workers earning at least \$16 an hour. Those changes are meant to encourage more auto production in the United States.

For months, the talks were held up by the Trump administration’s insistence on a “sunset clause”: A renegotiated NAFTA would end after five years unless all three countries agreed to continue it. Mexico and Canada considered that proposal a deal-killer.

On Monday, the Trump administration and Mexico announced a compromise on that divisive issue: An overhauled NAFTA would remain in force for 16 years. After six years, the countries would review the agreement and decide whether it needed to be updated or changed.

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