



Urgency and Caution: Charting a Careful Path to the CUSMA Review

By Meredith Lilly

Shortly after his successful election in April, Prime Minister Mark Carney ventured to Washington to meet President Trump. Notwithstanding his campaign promise to stand up to the president, he carefully chose the few words he uttered. Though he politely rejected Trump's ongoing suggestion that Canada should become the 51st state, he left unchallenged the rest of Trump's bluster and insults toward Canada during their meeting in the Oval Office. Perhaps unsatisfactory to the "elbows up" crowd at home, the prime minister made the right call. It is the duty of every Canadian prime minister to find a way to work constructively and productively with whoever occupies the White House, even President Trump. Canada's economy and security depend on it, and the risk of negative outcomes to either country from a poor relationship between leaders rests overwhelmingly with Canada. It is, therefore, essential that the prime minister build on areas of common interest while limiting additional exposure to the US through diversification efforts.

Meanwhile, within the US, there are signs that the trade chaos which characterized the initial months of Trump's presidency may be easing. Despite the administration's wild "Liberation Day" tariffs and earlier fentanyl tariffs targeting Canada and Mexico imposed under the *International Emergency Economic Powers Act* (IEEPA), most Canadian exports to the US remain eligible for tariff-free treatment provided they comply with the Canada-US-Mexico Agreement (CUSMA). Since March, Canada's Trade Commissioner Service (TCS) has done outstanding work to help Canadian exporters qualify for tariff-free treatment, dramatically increasing applications for CUSMA compliance certification to over 90 percent (TCS 2025). And while it is a promising sign that the US Court of International Trade found Trump's use of IEEPA to be illegal, tariffs remain in effect pending the outcome of appeals (Manak 2025).

Of course, this tariff relief offers little comfort to the Canadian sectors targeted for harsh treatment, notably 25 percent tariffs on non-US content in autos and the doubling of tariffs on steel and aluminum to 50 percent during the first week of June (Hufbauer 2025). Several other sectors are likely to be targeted by section 232 tariffs in the coming months, including pharmaceuticals, lumber, aircraft parts, copper, and semiconductors. Section 232 tariffs are more likely to withstand legal challenges than those imposed under IEEPA, potentially making tariffs in sectors such as aerospace more problematic for Canada over the long term (Manak 2025).

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LOOKING AHEAD TO THE 6-YEAR REVIEW OF CUSMA

Yet, while addressing the disruptions in the day-to-day trading relationship with the US, it's also important to keep focus on Canada's interests in the upcoming six-year review of CUSMA. Given the ease with which the president has ignored the agreement in recent months by imposing tariffs under a national emergency rationale that has been rejected by the courts and trade experts alike (Reinsch and Denamiel 2025), many are rightly asking whether Canada should expose itself to further US aggression via a potential renegotiation of CUSMA. Yet it must be acknowledged that it is the existence of CUSMA and associated compliance with the agreement that now protects Canadian exports from the harsher treatment being imposed on other countries by the White House. Thus, it is possible that CUSMA and compliance with its rules could become even more important for Canadian exporters in the coming years.

More practically, short of withdrawal from the agreement by any of the three countries, the six-year review is statutorily required and on a prescribed legal timeline to accelerate over the coming months (The White House 2025). One advantage of the review process is that it demands the involvement of technocrats with trade expertise, which reduces the influence of political appointees who seem to be throwing darts at a map to reach their current policy positions. By comparison, shifting discussions to a disciplined forum led by trade officials in the three countries to evaluate CUSMA's implementation and goals for its future can only be positive.

In addition, despite the talk of CUSMA's renegotiation, the review is unlikely to become a full-blown renegotiation. That would require the president to seek and attain Trade Promotion Authority (TPA) from Congress. Every indication suggests the White House has no appetite for this, especially as US mid-term elections approach. This means Canada and Mexico have scope to limit negotiations to areas

of concern under existing rules, moderating the US's ambition. We know some of the key areas the US will focus on with Canada: Canada's *Digital Services Tax Act* and *Online Streaming Act*, stricter auto rules of origin, marketing of US beer and wine at the provincial level, Quebec's new language labelling law, and Canada's dairy tariff rate quota (TRQ) allocation process, and milk class pricing practices (USTR 2025). Even if new items are added, the scope will remain limited without TPA.

Canada will have its own list of grievances, including softwood lumber duties, US agricultural protections on products such as sugar, and the treatment of Canadian products subject to current illegal tariffs should they remain in effect. Canada's approach must also be shaped through consultations with industry to ensure Canadian interests are appropriately reflected, and negotiators are fully prepared. But provided that new rules of origin continue to preserve Canada's capacity to export vehicles to the US, the rest of the list will be manageable. This includes revising Canada's TRQ dairy allocation process to comply with multiple international tribunal rulings which have found Canada to be in violation of its existing commitments to trade partners. While the dairy sector will continue to cry foul, Canada should have introduced a more transparent TRQ allocation process years ago to comply with both the spirit and letter of its trade agreements (Lilly 2023).

At present, the US's most ambitious proposal for the CUSMA review may involve new rules to limit investment from non-market economies (namely China) in sensitive sectors such as AI, semiconductors, and advanced manufacturing. When the Americans table these "Fortress North America" proposals, Canada should respond pragmatically, finding ways to cooperate in exchange for gains elsewhere. For example, as a condition of opening a discussion on investment rules targeting China, Minister Dominic Leblanc must insist that current tariffs imposed on Canadian goods under US national

security exemption be lifted. After all, how can Canada cooperate on national security proposals with the US if we are subject to similar tariffs?

Ultimately, the most important elements of the CUSMA review may not be the set of substantive issues but instead may relate to timing and partnership. On timing, Canada will have to be judicious about when to move fast and when to go slow. In the original CUSMA negotiations, Canada moved so slowly that it was cut out of negotiations during a critical period and then was handed a take-it-or-leave-it agreement largely concluded bilaterally between Mexico and the US (Lilly 2024). While Canada must not find itself outside of negotiations again, it is not clear whether a speedy renewal will be advantageous this time. A year ago, it seemed like failure to reach an agreement to renew CUSMA in 2026 would send an incredibly destabilizing signal to businesses because it would trigger annual reviews of the agreement for up to 10 years until CUSMA is renewed or ultimately expires in 2036. However, Trump's tariff actions over the past few months have already been far more damaging to business confidence than the prospect of missing the first opportunity to renew in 2026. If the review remains limited to a well-defined list of irritants, there is no reason the three countries cannot reach an agreement to renew early. However, Canada should not come under undue pressure to renew if faced with outrageous demands by the US and may instead opt to pursue a slower timeline.

On partnership, the prime minister is to be congratulated for seeking to reset relations with Mexico after comments made by federal and provincial leaders in 2024 seeking to isolate Mexico in the CUSMA review. Mexico's President Claudia Sheinbaum's presence at the G7 also sends a positive signal about Canada-Mexico cooperation, and the two countries can gain leverage with the US by

coordinating efforts during negotiations. Even in areas where Mexico and Canada are likely to disagree – such as over national security rules likely to be advanced by the US – Canada can gain an advantage through its presence in those discussions. But if talks devolve into two bilateral negotiations, there will be only one winner: the Americans.

FINDING PERSPECTIVE

The Trump administration has set a dizzying timeline to reach a series of “deals” with many countries and will be consumed with these activities until at least the fall. President Trump and Prime Minister Carney agreed, in the margins of the G7 summit in Kananaskis which ended on June 17, to come up with a deal on trade and security within 30 days, but expressed differences about what this might mean for the removal of recently imposed tariffs. While Canadian negotiators are right to press for an immediate resolution to current tariffs, they should also offload legitimate issues pertaining to CUSMA to the formal six-year review process, where they can be addressed with discipline and technical expertise by officials in all three countries.

In the meantime, there will be much stickhandling for Carney and his team in the broader bilateral relationship: addressing real and perceived claims about trade circumvention and transshipment through Canada; delivering on Canada's new defence spending commitments while seeking to diversify from US suppliers; passing the newly tabled Canadian border legislation amendments; and responding to the inevitable outbursts by the president that threaten to derail the fragile balance at any moment. The prime minister must be laser-focused on keeping the ship on course for the long term while dodging the salvos along the way.

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