A background image showing a person's face and glasses as they look at a laptop screen. The image is partially obscured by a large green triangle in the top right corner.

The path ahead for the USMCA: Will it be ratified by the U.S. Congress in 2019?

10 October 2019

On 30 November 2018, President Donald Trump delivered on his campaign promise and reached an agreement with Mexico and Canada to replace the North American Free Trade Agreement (NAFTA) with the United States–Mexico–Canada Agreement (USMCA). Before the new agreement can take effect, all three countries' legislatures must ratify it. The senate in Mexico not only approved the labor safeguards that were a precondition of the U.S. in the initial negotiations, but became the first to ratify the agreement in June 2019. The Canadian Parliament is likely to ratify the deal after its federal election on 21 October. The deep-rooted interconnected nature of the three North American economies provides a strong path forward for ratification. Approval in the Republican-controlled U.S. Senate is likely, but the onus of passage continues to evolve around when, and if, House Speaker Nancy Pelosi (D-NY) will bring the agreement to the House floor and if the House can get a simple majority of 218 affirmative votes for passage. Factors such as the impeachment inquiry, the upcoming 2020 elections, and support from the labor unions can swing any current momentum from one side to the other in a moment's notice. A dwindling legislative calendar of about 20 working days before Thanksgiving is narrowing the path to passage and making it more difficult to predict.

Congressional passage of free trade agreements is historically contentious, but the politics surrounding the USMCA in Congress provides some interesting hurdles that will need to be overcome. Pelosi says she is committed to the agreement's passage, but the diverse Democratic Caucus is divided on the four issues of labor, enforcement, environment, and prescription drugs. Despite the obstacles, Pelosi is a shrewd negotiator and a powerful leader. Her track record showcases her ability to building consensus among the Democratic Caucus when it is most needed. Pelosi most likely has enough support from New Democrats and the Blue Dog Caucus to meet the 218 threshold required. She will probably seek to achieve a broader show of unity and support rather than just the minimum simple majority for passage. The fundamental way to achieving this is by resolving the above issues and getting labor unions on board.

Pelosi appointed a nine-member Democratic trade working group led by House Ways and Means Chairman Richard Neal (D-MA) to work on the four broad issue areas. The working group is meeting regularly with the White House, U.S. Trade Representative (USTR) Robert Lighthizer, labor leaders, as well as Mexican officials hoping to settle differences on these issues. The working group has been making steady and positive progress since its first meeting in June with Lighthizer. Reports say there was a close working relationship between the Democrats and Lighthizer as they negotiated in "good faith" throughout the summer. The two groups have exchanged counterproposals, but issues remain unresolved, and enforcement continues to be a significant sticking point.

During the October recess, Neal and four house members traveled to Mexico for a second meeting with government officials on enforcement issues returning saying they are still not satisfied with Mexico's progress in its enforcement mechanisms. Specifically, Democrats and U.S. union leaders are concerned that Mexico's 2020 budget is not allocating enough funding to implement its new labor reform laws. Labor unions have a significant influence on Speaker Pelosi's decision to move forward with ratification; she will most likely wait for a thumbs-up from unions signaling that Mexico's budget and the changes to enforcement provisions are acceptable. The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) President Richard Trumka says unions cannot support the USMCA as it currently stands because it is unenforceable. He is warning Democratic leaders to not cave to Republican's push to rush passage. Meanwhile, the current United Autoworker (UAW) labor strike, now in its fourth week, is further complicating the dwindling time left on the legislative calendar. The UAW is not supportive of the USMCA, and the House would be unlikely to bring the USMCA up for a vote while the organization is on strike.

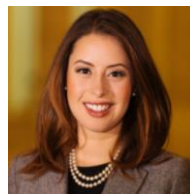
Additional swinging doors include the House impeachment inquiry and the upcoming 2020 election cycle. This week, President Trump threw down a gauntlet, further altering the political dynamics of these circumstances by announcing that the White House will not cooperate with the impeachment inquiry. Previously, Democrats had a choice to defer action on the USMCA with a low economic cost and the option to modify the USMCA after the elections. Pelosi now has more to gain by proving that the Democratic caucus can deliver a critical bipartisan legislative proposal while conducting an impeachment inquiry. Pelosi has emphasized that the Democrats are on a “continued path to yes” on the agreement this fall despite impeachment. The Trump Administration needs to ensure the USMCA passage to meet the concerns from Republican members whose districts are highly dependent on trade with Canada and Mexico. It is questionable which way the door will swing when it comes times for either the President or Pelosi to have to choose whether to deliver on a top priority trade deal and have to share some of the glory with the other.

Depending on the political atmosphere, any one of these obstacles can change or block the path to passage, but the path is still there. Republicans and Democrats have a stake in the USMCA and have invested heavily in the negotiations for its passage. President Trump wants to deliver the USMCA as promised to his Midwest manufacturing base. Democrats want to negotiate a better deal for the labor and the environment. But a majority of Americans fall in a moderate base that wants their faith renewed that Congress can function and do their job. For all these constituents, the USMCA passage may be the easiest path to do that.

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