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Unresolved question in USMCA talks: The Labor Department's role enforcing it

Sean Higgins

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As the Trump administration, congressional Democrats, and Mexican officials struggle to complete negotiations over the U.S.-Mexico-Canada Agreement, one of the issues that remains unresolved is the role that the Labor Department would play in enforcing the trade deal.

The agency would likely be the main entity charged with ensuring Mexico's compliance with the deal's labor standards. The Democrats' insistence on absolute compliance by Mexico regarding labor requirements is the main issue holding up the deal, which would replace the 1993 North American Free Trade Agreement.

Labor Department officials are not part of the negotiations right now. Instead, they're waiting to be told what their duties would be. Department officials told the *Washington Examiner* that they will go along with whatever is required of them to monitor USMCA compliance. But the negotiators have not yet been able to get far along enough in talks to give them a heads-up about what that role would be.

The U.S. Trade Representative's Office and House Democrats have been meeting for months in order to hammer out a version of the deal that could pass the House. Tensions have flared over the slow pace of the talks. Even after House Speaker Nancy Pelosi, a California Democrat, said earlier this week she was backing impeachment proceedings against President Trump, officials have said the talks were continuing.

"We're moving ahead on the U.S.-Mexico-Canada agreement," Pelosi said Thursday. "We're, again, hoping to be on a continuing path to 'yes.'"

"I hope the green light from Speaker Pelosi will come before the end of October," Mexican Deputy Foreign Minister Jesús Seade [told Reuters](#) Friday.

A key issue for Democrats in the deal is securing measures geared at preventing outsourcing. USMCA requires 75% of a car be made in the United States, Canada, or Mexico in order for it to be duty-free, up from 62.5% under NAFTA, meant to limit supply chains that go abroad. The deal also requires at least 40% of its parts to be made by workers earning \$16 an hour, a wage scale intended to eliminate Mexico's competitive advantage thanks to cheaper labor.

USMCA also requires that Mexico reform its labor policies to make unions more independent and free from corporate influence. American unions have long argued that Mexican laws allow for sham unions that are actually controlled by management. USMCA would, for example, require secret ballots in all union elections to ensure the officials have the workers' backing.

Mexico amended its labor laws in April to comply with these requirements, but Democrats say they need more assurance that it follows through. Exactly how USMCA would do this is unclear — perhaps even to the negotiators. There is some precedent for it though, noted Christopher Wilson, deputy director of the Mexico Project at the Wilson Center, a foreign policy think tank.

"DOL played an important role in the implementation of the labor side agreement of the original NAFTA," Wilson said. "Generally, it was unions or other actors that would bring up a complaint, then DOL would review and investigate the claim in order to decide what steps they would take. DOL is represented at the U.S. Embassy in Mexico, and State Department officials also support this work."

Labor standards enforcement is nevertheless a tricky thing to include in a trade agreement, said Inu Manak, a visiting scholar at the free-market Cato Institute, because it means a country is giving a foreign government the power to audit its domestic factories. When previous trade deals have included this kind of language, it was put in a side deal, not the main text. Side deals are harder to enforce. "If a country violates a side letter, you don't usually have recourse to dispute settlement," Manak noted. "On the other hand, when included in the text of an agreement, obligations are subject to dispute settlement."