Shutdown averted, USMCA and Energy Reform still big question marks.
Antonio Garza
The Honorable Antonio Garza U.S. Ambassador (Ret)., Apr 5, 2019

Yesterday, President Trump appeared to back away from his threat to close the U.S.-Mexico border. The change of tone was a relief, especially for the North American business and border communities that would be paralyzed from the halted cross-border trade and movement.

Trump noted that his administration would give Mexico a "one year warning" to address drugs crossing into the United States, and would first apply tariffs before stopping all transit. The demand is an impossible ask for Mexico's new president, but it is not the only big issue brewing across the region.

We are now four months into the López Obrador presidency, marked by policy changes across a range of sectors and a considerable amount of uncertainty. The new team inherited a host of challenges, including record-breaking homicide rates, persistent poverty and inequality levels, and widespread corruption.

In response, they have pursued a range of new (or revived) approaches, including the creation of the National Guard, a Train Maya in the Yucatán Peninsula, and an Ayotzinapa Truth Commission. While some initiatives have been well received, others have sewn confusion or rejection among various sectors of Mexican society. Yet, despite the controversies, López Obrador continues to command an impressive approval rating as he pursues changes throughout an enormous range of issues.

While not always at the top of the news cycle, arguably one of the most important agenda items is the new United States Mexico Canada Free Trade Agreement (USMCA). Since it was signed on November 30, 2018, the agreement has steadily moved through the three North American countries' legislatures, following the necessary administrative processes to become the new NAFTA. However, ratifying the agreements looks to be anything but smooth sailing.

The new Democratic majority in the U.S. House of Representatives has eyed changes to the agreement's labor, environmental, and pharmaceutical provisions. Earlier this week, House Majority Leader Nancy Pelosi noted that USMCA talks will need to be reopened and that Mexico will need to pass and implement its new labor laws before Democrats would feel comfortable moving forward with the USCMA's passage. Given Canada's October elections and the 2020 race in the United States, the window for approving the agreement is slim. A 2021 vote on the USMCA is becoming a real possibility, and so is the chance of a Trump withdrawal for tactical or negotiating purposes.

Meanwhile, some of the new Mexican administration's biggest shifts have been in the country's energy sector, In general, López Obrador's team has repeatedly sent mixed messages on their overall direction and aims. This was particularly clear for the Dos Bocas refinery project, which is one of the new team's biggest energy initiatives. After some conflicting messages, López Obrador himself confirmed that the project will continue and invited four firms to participate directly, instead of through an international open bidding round.

This move away from open bidding rounds has been repeated in the energy and electricity tenders, where the administration has suspended or canceled every upcoming round. Oil and gas tenders are suspended for at least three years, and Pemex farm outs are also suspended.

On the electricity front, clean energy tenders and transmission line tenders were also cancelled. On January 30th, credit agencies downgraded Pemex credit rating, with Fitch moving it down from BBB+ to BBB- (the last investment-grade rating) amid growing concerns for high debt levels, declining production, and what they considered an insufficient plan to meet the cash flow challenges.

Lastly, Central American migration and the U.S.-Mexico border has become the big news story in the United States. Part of the U.S. media attention comes from the higher than usual migrant apprehension numbers in February, which reached their highest levels in a decade.

In response, the Trump administration has railed against Mexico for not doing enough and cut off aid to Guatemala, Honduras, and El Salvador. While it no longer looks like Trump will shut down the U.S.-Mexico border, the chaos has already caused longer than usual wait times, with traffic backing up for hours in Mexican border cities.

López Obrador and his administration have taken a surprisingly accommodating approach. Despite some high-profile migrant apprehensions in southern Mexico, where officials stopped multiple buses filled with migrants going north, the new team's general tone has been to wave off the controversy and focus on domestic politics.

Here at White & Case, we've also had a few high profile new stories over the past few weeks. In late January, LatinFinance magazine named three of our transactions as being among its "Deals of the Year," and the news and analysis service Latinvez also recently named White & Case as the top law firm in Latin American arbitration.

On a more personal note, I was recently the subject of a NACD Leadership Fellow Spotlight, and was honored to be among those recognized in the 2019 NACD Directorship 100 for impacting corporate boardroom practices. I was also very excited to be named by Hispanic Executive Magazine as one of 2019's Best of the Boardroom.

Over the coming months, the uncertainty over the new policies is likely to linger. As we see the results and consequences of the policy shifts, I look forward to hearing your thoughts through Twitter, Facebook, and LinkedIn.