Scott Miller: I'm Scott.

Bill Reinsch: I'm Bill.

Scott Miller: We're The Trade Guys.

Bill Reinsch: We're The Trade Guys.

Andrew Schwartz: You're listening to The Trade Guys, a podcast produced by CSIS, where we talk about trade in terms that everyone can understand. I'm H. Andrew Schwartz, and I'm here with Scott Miller and Bill Reinsch, the CSIS Trade Guys. In this episode, could the USMCA be on a path to yes?

Speaker 4: We're very encouraged to hear the Speaker of the House, just as recently as this week, talking about this as this is not a Republican trade deal, it's not a Democrat trade deal. If she brings the USMCA to the floor, it'll pass.

Andrew Schwartz: Reports say that earlier this week, United States Trade Representative Robert Lighthizer showed significant flexibility in addressing concerns raised by the Democrats in four areas of the agreement. We'll ask The Trade Guys what issues remain. Plus, the EU braces for U.S. tariffs after a dispute over Airbus.

Speaker 5: The U.S. is threatening $4 billion worth of new tariffs on goods from the EU. The list includes products like Italian coffee, Parmesan cheese and scotch whiskey. The U.S. says the tariffs are in response to a 30-year-old dispute over subsidies for Airbus.

Andrew Schwartz: You'll hear about all that and much, much more on this episode of The Trade Guys. Trade Guys, USMCA is back-a.

Scott Miller: Yes, indeed.

Andrew Schwartz: USMCA, come one. You got to give me that one, Bill.

Bill Reinsch: All right.

Andrew Schwartz: USMCA is back-a.

Bill Reinsch: All right, you get two chuckles for that.

Scott Miller: We won't have this nickname to kick around much longer, okay? It's a-

Bill Reinsch: I certainly hope not.

Andrew Schwartz: We will not have Nixon to kick around much longer.
Bill Reinsch: That's right.

Andrew Schwartz: Okay, so tell us about that, Scott. Why will we not have-

Bill Reinsch: Scott has come around, I just want to report.

Scott Miller: Well, yeah.

Bill Reinsch: He's slowly coming around to my point of view on this.

Andrew Schwartz: This is a new move.

Scott Miller: I'm quite encouraged. What I'm encouraged about first, the process seems to have held together quite well. Staff, from both the Administration and Congress cooperated well over the break. They came back and immediately, Congress began being receptive to the Administration's proposal. The Administration delivered a written proposal, as they had promised, and people are working through this.

Scott Miller: Chairman Neal and Ambassador Lighthizer have delivered the process elements of reaching an agreement on the House Democrats' concerns for changes to USMCA, so that's the bottom line is the process looks pretty good. They have not, at least the leadership has not permitted additional issues to come into it. We're still working on labor environment enforcement and pharmaceuticals.

Andrew Schwartz: The Canadians and Mexicans? Are they-

Scott Miller: Well, the Mexicans have ratified.

Bill Reinsch: Mexicans have approved. The Canadians are waiting for their election. Actually, this came up in a conversation a while back. Both of the two biggest parties in Canada have endorsed the agreement. The Liberals who are in the government and the Conservative Party has also supported it, so if either of them gets a majority, I think the agreement is in good shape.

Andrew Schwartz: What Americans need to know is this is down to us. Maybe.

Bill Reinsch: Well, more or less. There is a danger in Canada that you could end up with a ... There are multiple parties in Canada, more than two, and it's a Parliamentary system. You might end up in a situation where neither big party gets a majority and they need to affiliate with one of the small parties. Both of the small parties will oppose the agreement, so that could be complicated.

Scott Miller: Coalition governments are not unusual in Canada. Stephen Harper operated as a Prime Minister with a minority of his own party for some time, so this is actually
an outcome that could happen, but probably won't, and probably, ultimately will not be dispositive.

Scott Miller: While the Mexicans had to already ratify the agreement, the government of Mexico was very transparent and supportive during the month of August as members of Congress traveled there, as Representatives of NGOs traveled there, so it looks to me like the government of Mexico is doing everything they can to help U.S. elected officials resolve their concerns and get on with it.

Bill Reinsch: They're also visiting a lot of members up here, and they made it clear to me they'd be happy to have more Congressional delegations go down there and visit.

Andrew Schwartz: Well, it's getting cold up here, so ...

Bill Reinsch: It depends on how long it takes before they vote, but there may be more visits, which would be a good thing. So far, I think it's on track, at least with my latest prediction, which is subject to revision, which is they're still negotiating. This week's news was the House Democrats said, "We're very happy that the Administration sent something back. We're looking at it. Parts of it are very good, parts of it are not so good," so there's going to be a back and forth.

Andrew Schwartz: What are Democrats happy with?

Bill Reinsch: They haven't said, specifically. I think where they're getting closer is on the labor issues, partly because the Mexican government, I think, has done a very thorough job of trying to convince the House Democrats of their commitment to actual, genuine labor reform. I think they've made some progress on the general enforcement issues. The rumor is that the Administration seems now willing to accept provisions that would not permit countries to block dispute settlement panels, which is what we had insisted on before.

Bill Reinsch: I think the drug issue is still a little bit up in the air. There's been workouts proposed. I think the dilemma there, there's an obvious workout, which is, I think, the one the Administration favors which is that, basically, leave it the way it is. If Congress is ever able to change the U.S. law, which is 12 years of data protection, the agreement says 10. If Congress can change it for the U.S., then the others will change theirs as well.

Bill Reinsch: I mean, this is one of those awkward issues where I think the people in the Congress that want to lower the data protection period from 12 years to some smaller number, I don't think they've got the votes right now. I think they'd like to use this agreement to help them get the votes. I think Ambassador Lighthizer's point, which I sympathize with totally on this was, "Look. The authority that we're using to conduct this negotiation, the Trade Promotion Authority Bill, says we should make these agreements as close to U.S. law as we can." Well, this is pretty close to U.S. law.
Scott Miller: That's how the Congress instructed him when he got started on all this.

Bill Reinsch: That's what they told him to do.

Scott Miller: Right.

Bill Reinsch: Some of the complaints from the Democratic Left has been, "You haven't gone as far as we want." The Administration's response is, "Well, we've gone as far as U.S. law permits."

Scott Miller: Would allow, yeah.

Bill Reinsch: "If you want us to go farther, then you need to begin by changing U.S. law, not by changing the agreement." I think that's an argument that a lot of people will get, eventually.

Andrew Schwartz: What are Democrats unhappy with?

Scott Miller: Well-

Bill Reinsch: Some of them are unhappy with environment.

Scott Miller: Yes. In fact, there was new, this week, there was a letter with about 100-

Bill Reinsch: 102.

Scott Miller: 102 members of Congress, all Democrats, signing, that it appears to demand or strongly suggest, somewhere between demand and strongly suggest, that the Administration include provisions regarding climate change in the USMCA.

Bill Reinsch: And the Paris Agreement, in-particular.

Scott Miller: Particularly, recognize the Paris Agreement in making things in the USMCA binding to the commitments of the Paris Agreement.

Bill Reinsch: A poison pill, if there ever was one, for the President.

Andrew Schwartz: Yeah, and so this brings the question, is climate change an appropriate topic to address in a trade deal?

Bill Reinsch: Well, that was my column last week about-

Andrew Schwartz: That's why I'm asking.

Bill Reinsch: That forces me to remember what I said, though that's a sneaky tactic. I think there's a danger of these things becoming solutions to all problems. One of the
things that has happened, in general, with trade agreements is they used to be just about tariffs, and it made sense for them to be just about tariffs because tariffs were the big deal. Tariffs were high and bring them down was very important.

Bill Reinsch: As tariffs have gotten lower and lower, I think our average rate now is ... Well, with Trump it's hard to say. Before Trump, the average rate was below 3%. As tariffs become less important, non-tariff barriers have become more important, so countries set up health, safety, environmental standards that are really trade barriers, to keep your products out on the grounds that they are unsafe, unclean or whatever.

Bill Reinsch: The problem with that is, basically, it means that trade agreements now are focusing on less and less on how people do business and more and more on how people live. Governments are being told, "You have to regulate your environment this way. You have to regulate your drugs this way, because that's what we want." That makes agreement much harder.

Andrew Schwartz: Something that's already extremely complicated gets even more complicated.

Bill Reinsch: Gets worse. Well, yeah.

Andrew Schwartz: With the most complicated issue of our time.

Bill Reinsch: Yes. One of the Presidential candidates, who shall remain nameless, tried to put the Uyghurs on the table in dealing with China. The Chinese are repressing their Uyghur minority. This is a terrible thing to do. The whole world is condemning it. How you deal with that in a trade agreement eludes me.

Scott Miller: Right, yes. Now, our agreements are comprehensive in scope, and that encourages people to add their issues as well. I think, at the moment, with regard to USMCA and what happens this fall, I'm going to watch the leadership very carefully. No members of the Democratic leadership were signatories among these 102 members. That's first, good news. Second, no leader, specifically Speaker Pelosi nor Chairman Neal have said a word about the letter. Ultimately, this comes down to real politics.

Andrew Schwartz: Is this The Squad? Is that where this is coming from?

Scott Miller: Well, not necessarily.

Bill Reinsch: It's led by a freshman from California.

Scott Miller: A freshman from California. It's a different group of members, but it's members generally concerned about climate as their major issue. It's not unheard of in the past for there to be pretty extensive demands by environmental NGOs that
get picked up by groups of members of Congress. This has happened in agreements before.

Scott Miller: Now, I used to work advocacy programs, say from 2001 to about 2012 when these thing were happening on the Hill. It's one of those things. What we learned is there's always going to be demands at the last minute, but the real politics says you separate the demands that actually move members from the ones that don't. Our experience throughout, and keep in mind, I worked on some landslide victories like Central America, U.S. Free Trade Agreement, which passed the House by two votes, and the margin was that big because we managed some absences-

Andrew Schwartz: Wow.

Scott Miller: ... in that case, so there were some cliffhangers, but the general rule of thumb is organized labor is an important element because they're organized, and they actually move votes for members. The environmental movement is one with broad general support, but at the end of the day, is not dispositive in members' calculation as they approach the finish line on these agreements.

Scott Miller: Now that may have changed. It was a long time ago since Congress did a free trade agreement of any sort. Much of the Congress has changed since then, but this is the calculation that both the Administration and the Democratic leadership will have to make. If they've got enough votes without these 102, then they move.

Bill Reinsch: They've also come a little bit late to the party. I mean, environment is one of the four issues the Speaker has identified, so the general idea is not a new one, but trying to toss the-

Andrew Schwartz: The four issues the Speaker identified for Bob Lighthizer.

Scott Miller: Yeah, for Lighthizer.

Andrew Schwartz: Yeah.

Bill Reinsch: Trying to ... The train's leaving the station here, and trying to toss the Paris Agreement onboard is not something that anybody has proposed for the last year or so, and it's not only an overreach but it's too late.

Scott Miller: Sure.

Bill Reinsch: I don't think it's going to go very far.

Scott Miller: If that calculation changes, the leadership will say so, and you'll know then they need some votes. My sense is, once this working group led by Chairman Neal
chops with the programs that they've agreed with, the modifications that they've agreed with the Administration, Ambassador Lighthizer, at that point, there's sufficient Republican votes in the House and sufficient overall votes in the Senate for this thing to move fairly straightforward.

Andrew Schwartz: Okay, so what's the timetable we're looking at here?

Bill Reinsch: I'm sticking with negotiate in September, draft in October, vote before Thanksgiving.

Scott Miller: Yeah. I think everybody wants to finish this up in 2019, and at some point, you've milked all the politics out of it, which is about when the implementing bill is introduced. At that point, it's just, we just get it over with.

Andrew Schwartz: All right.

Bill Reinsch: Remember, the back end's very short.

Scott Miller: Yeah.

Bill Reinsch: Once Lighthizer and the group of Democrats finish negotiating, and if they have an agreement, then it can't be, once that's submitted, it can't be changed. Once it's formally submitted, the process is relatively short. There'll be a House hearing, there'll be a Senate hearing, the Committee will vote. It'll go to the Floor within a day or two of the Committee vote, they'll debate and that'll be it.

Scott Miller: Adios, muchachos.

Bill Reinsch: Now is the long part.

Scott Miller: Right.

Andrew Schwartz: Well, you heard it first here on The Trade Guys. Both Trade Guys are in agreement. Looks like we're going to get USMCA coming back-a, right at 'ya in 2019.

Scott Miller: Happy Thanksgiving, America.

Andrew Schwartz: Happy Thanksgiving.

Bill Reinsch: No turkey jokes allowed, all right?

Andrew Schwartz: All right. Let's move on to another topic. EU. Bracing for U.S. tariffs after a dispute with Airbus. What about it, guys?
Scott Miller: Let’s start by pointing out that while the President gets a lot of haranguing in the popular press for coloring outside the lines with his tariff proposals, this is one that worked according to the rules.

Bill Reinsch: This one is legal.

Scott Miller: This one is one that followed every step of the rules of GATT ’94, right down to the appeals process and they had all the referees, so this is the one that worked exactly the way all of the President’s predecessors wanted it to.

Andrew Schwartz: Am I hearing this right? Our President is playing within the lines.

Scott Miller: In this case.

Bill Reinsch: Of course, it took 13 years, which tells you something about the process.

Andrew Schwartz: Okay.

Scott Miller: Yeah. Yet it is a process where there's been a long-standing dispute about civil aviation subsidies, large commercial aircraft subsidies between the U.S. and EU. Think of it as Boeing and Airbus, because it is a duopoly, and that's what it amounts to.

Scott Miller: After over a decade of legal wrangling, the WTO's appellate body determined that the United States prevailed in its arguments and was entitled to suspension of concessions if ... The first option was for the European Union to correct the measures which were out of compliance with its obligations. They've not done that, and so now we get to do what's called suspending concessions, which is a way to encourage the Europeans to get on with it. That will amount to tariffs on-

Bill Reinsch: Estimated 10 billion. The last stage here is, what happens is the other side says that, "We've complied." The United says, "We haven't." Then the WTO looks at it again. Eventually, an arbitrator has to decide how much damage is being caused.

Scott Miller: Right.

Bill Reinsch: It comes down to dollars and cents. The arbitrator's report is confidential. The leaks suggest it was between five and eight billion euros, which means 10 billion U.S. The Administration has proposed tariff increases of up to 25 billion, so they got a lot to choose from. I think the next step will be the United States whittling its $25 billion list down to the actual amount they're permitted.

Bill Reinsch: The EU is trying to head this off. They've been trying to head this off for years because they knew they were going to lose. They think the issue should be
resolved with a negotiation, which may be the way it turns out. Because one of the things that we haven't talked much about is there's a second case that follows this one. Because once we sued Airbus, basically, they sued us for the U.S. having subsidies for Boeing, and both sides won. We won, and the Europeans won. They won against us.

Scott Miller: We got to the finish line first.

Bill Reinsch: Yeah. Their case is 69 months behind ours, so our retaliation gets to go into effect sooner. Now, I think that the way this is going to come out is that both sides won. We won more than they won, I think. I mean, I think we won in the sense that the arbitrators found the European subsidies are a much larger number than, I think, the American subsidies are.

Scott Miller: Correct.

Bill Reinsch: The Europeans don't agree with that, and we'll have to wait until February to see. The Europeans, right now, kind of have the short end of the stick because we are in a position of being able to impose legitimate, substantial duties on European imports, and it appears that we're going to, and they can't do anything about it, and they can't get even for six months, until it's their turn. They are very anxious for a negotiation. All the signs ... Scott can disagree. All the signs I've seen are that Ambassador Lighthizer wants to go ahead with the tariffs and wants them to suffer.

Scott Miller: Yeah, I think this is going ... Clearly, this is going forward.

Andrew Schwartz: Well, to many of us lay-folk, this could appear that the United States has fired its first warning shots at the EU's next Trade Commissioner before he's even taken office. No?

Bill Reinsch: Well, it has that effect. I mean, that's an accident of timing. I mean, this is like I said, this has been going on for 13 years. Nobody thought 13 years ago that it would come out in the fall of ... Commission transition.

Scott Miller: Our President was in the real estate business 13 years ago when this case was filed-

Bill Reinsch: Oh. I didn't know that. He was.

Scott Miller: ... So nobody foresaw this, so it's one of those things. It may or may not affect ... It certainly is a-

Andrew Schwartz: He was in the real estate and TV business.
Scott Miller: Yeah. It is an atmospheric, you're right, about the new EU Trade Commissioner- [crosstalk 00:18:05]

Andrew Schwartz: Are we setting up a tense relationship with our European allies?

Scott Miller: What do you mean "setting up"? We've had tense relationships for years.

Andrew Schwartz: Yeah, but I mean are we ... Let me rephrase. Are we ratcheting up a tense relationship, unnecessarily?

Bill Reinsch: Yeah, I think so. I was at a session ... I have to, I'm going to quote myself, which I shouldn't do.

Andrew Schwartz: I like when you quote yourself.

Bill Reinsch: It's relevant, because you opened the door. I went to a conference on, basically, transatlantic relations, that was mostly about sanctions, but there was a European representative there. This was all off the record, so I don't want to mention who it was. Part of his pitch was, "We're nice people."

Scott Miller: Yeah.

Bill Reinsch: You think "kumbaya" when you think of the EU.

Scott Miller: Right.

Bill Reinsch: I finally said, "When I think of the EU, I don't think of kumbaya, I think of Machiavelli."

Scott Miller: Yeah.

Bill Reinsch: It's a fraught relationship. We, ostensibly, the two Presidents, Juncker and Trump-

Andrew Schwartz: Who are we supposed to be? The guys in the black cowboy hats? Or the black rebel motorcycle gang? I mean, come on.

Scott Miller: Look, there is a school of thought, that particularly on commercial matters, that interprets the European Union as an entirely anti-American project.

Bill Reinsch: Yeah.

Scott Miller: Those voices are here in Washington.

Bill Reinsch: Sure.
Scott Miller: The suspicions are always there. The relationship has been tenuous and, frankly, we've had trade negotiations for a very long time that have gotten absolutely nowhere. TTF has launched-

Bill Reinsch: More than 30 years on chickens.

Scott Miller: Yes, but TTF which was launched by the Obama Administration, I think, 2010, is still in its, "What's the shape of the table?" phase, for practical purposes.

Andrew Schwartz: Well, all the EU Communications Directors meet here weekly in Washington, the ones who are here in Washington.

Scott Miller: I've spoken to them.

Andrew Schwartz: I did too, so maybe they're trying to soften us up. I thought they were lovely people, and I really enjoyed meeting with them, so ...

Bill Reinsch: They are ... Machiavelli was a nice guy too, but I am sure ... I mean, before my time, believe it or not.

Scott Miller: For the moment, look, just get to know some new and terrific American whiskies, because your scotch is getting more expensive.

Andrew Schwartz: Yeah, well I'm an American whiskey guy myself, as you know.

Scott Miller: Yes.

Bill Reinsch: Actually, that raises a very interesting question. If Brexit occurs and the UK is out of the EU, will tariffs on scotch go up?

Scott Miller: I don't know. They're on the list now, that's all I know.

Bill Reinsch: The UK is in the EU now.

Scott Miller: It's still in the EU now, so I don't know what happens.

Bill Reinsch: It'll be an interesting question. Brandy's going up, cognac's going up, wine may go back.

Andrew Schwartz: Yep, okay. I have another question. As much as I do love my Miller High Life, I happen to really love German beers. What's going to happen with that?

Scott Miller: The price is going up, so ...

Andrew Schwartz: This is not good. This is what I'm saying. Do we need to ... Is this unnecessary to ratchet this up?
Scott Miller: This is an incentive for Europe to fix its subsidies problem that have damaged U.S. interests for 30 years, so that's really what this comes down to. They could comply anytime they wanted to, and if they were to comply with the ruling that was just issued by the organization they helped created, then there'd be no tariffs.

Bill Reinsch: The sad thing about this, and I have very little sympathy for the Europeans on this issue. They decided they were going to build a competitor to Boeing, and they created it with government money, three government monies. Airbus wouldn't exist if it were not for extraordinary subsidies over 40 years, all told. In a way, this horse left the barn a long time ago. We can try to get them back on a market structure, but the whole competition has been created through a subsidized enterprise, and I just, I don't have much sympathy for them.

Scott Miller: Well, yeah. Ultimately, the Godfather was right, "This is not personal, it's just business."

Andrew Schwartz: The Godfather's always right.

Bill Reinsch: Godfather was Italian too, just like Machiavelli. Remember that, see.

Andrew Schwartz: Well, the Godfather is always right, as you know. Gentlemen, it's been a pleasure. Until next week. Fredo does sleep with the fishes, we do not.

Scott Miller: That's right.

Andrew Schwartz: To our listeners, if you have a question for The Trade Guys, write us at TradeGuys@CSIS.org. That's TradeGuys@CSIS.org. We'll read some of your emails and have The Trade Guys react to it. We're also now on Spotify, so you can find us there when you're listening to The Rolling Stones or you're listening to Tom Petty, or whatever you're listening to. Thank you, Trade Guys.

Scott Miller: Thanks, Andrew.

Bill Reinsch: Thank you.

Andrew Schwartz: You've been listening to The Trade Guys, a CSIS podcast.