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White House Grants Exemption from Section 232 Duties to Mexico and Canada Paving the Way for U.S. Mexico Canada Agreement (USMCA) Approval

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Late on Friday, May 17th, the White House removed a large impediment to the ratification of the USMCA when it announced a resolution of the Section 232 steel and aluminum tariffs standoff with Canada and Mexico without resort to quotas:

"5/17/19, Washington, DC – Today, the United States announced an agreement with Canada and Mexico to remove the Section 232 tariffs for steel and aluminum imports from those countries and for the removal of all retaliatory tariffs imposed on American goods by those countries. The agreement provides for aggressive monitoring and a mechanism to prevent surges in imports of steel and aluminum. If surges in imports of specific steel and aluminum products occur, the United States may re-impose Section 232 tariffs on those products. Any retaliation by Canada and Mexico would then be limited to steel and aluminum products. This agreement is great news for American farmers that have been subject to retaliatory tariffs from Canada and Mexico. At the same time, the Agreement will continue to protect America's steel and aluminum industries".
Read the full Press Release [HERE](#).

Section 232 duties of 25% and 10% on steel and aluminum imports respectively have been in effect for most countries since May 1, 2018. Mexico and Canada were initially exempted, but later tariffs on imports from Mexico and Canada were added by President Trump to incentivize the ongoing NAFTA revision negotiations. See Butzel Long Client Alerts for a history of the Section 232 tariffs: September 7, August 9, August 2, July 11, July 9, June 15, and April 4, 2018.

Canada and Mexico have repeatedly objected to the continuation of these duties after an agreement was reached as an obstacle to the ratification by their respective Legislatures

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Catherine M. Karol
Of Counsel

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of the NAFTA Replacement, the USMCA. Canada had stated that they would not even present the agreement to its Parliament until the Section 232 duties were removed. The action by the White House now removes what many considered the biggest obstacle to early ratification of the agreement. As a result of this news from the White House, retaliatory duties imposed by Mexico and Canada on U.S. steel and aluminum products will also be removed. USMCA negotiations have been ongoing for many months, although it is unclear why the sudden breakthrough occurred last week and if other concessions were obtained by the U.S. in return.

The U.S. International Trade Commission issued its USMCA report to Congress on April 18th, 2019. This report was a condition precedent to U.S. congressional action. In addition, Mexican Congress recently passed certain labor legislation, which was demanded by many Democratic members of the U.S. Congress before they would consider passage of the USMCA. Congress must now pass "implementing" legislation as well as provide a "Statement of Administrative Action" that may contain some important interpretations of many of the provisions.

Under Section 151 of the Trade Act of 1974 (19 U.S.C. 2191), an implementing bill submitted by the President is automatically introduced in both chambers of Congress and then referred to the appropriate committees of jurisdiction (generally the House Ways and Means and the Senate Finance Committee, perhaps along with other committees). Generally, trade agreements that affect tariffs are considered revenue bills which must constitutionally originate in the House. In each chamber, the respective committees have 45 session days to report the bill back to the floor, and they may not amend it or recommend amendments. If either committee does not report after 45 session days, it is discharged from considering the implementing bill, which makes the bill available for floor action.

Butzel Long will continue to follow developments of the USMCA and keep our clients informed.

Leslie Alan Glick

202.454.2839

glick@butzel.com

Catherine Karol

313.225.5308

karol@butzel.com

Mitch Zajac

313.225.7059

zajac@butzel.com

Raul Rangel Miguel

202.454.2841

rangel@butzel.com

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He Xian

517.372.4449

xian@butzel.com