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Mexico's Shutdown Harms Aerospace and Defense in the U.S.

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Factory closures in Mexico due to COVID-19 are hurting U.S. defense firms. The Pentagon is urging Mexico to reopen critical suppliers.

The last fifteen years have seen substantial growth in Mexico's aerospace and defense (A&D) exports to the U.S. Fueled in part by its lower manufacturing costs and duty-free access to markets within the NAFTA (now USMCA) region, Mexico's aerospace exports to the U.S. jumped from \$1.3 billion in 2004 to \$9.6 billion last year. Within aerospace itself, Mexico exports everything from avionics to fuselages, and Mexico falls within the top ten of all exporters of A&D product to the U.S.

As a result, the U.S. A&D industrial base—aircraft manufacturers in particular—has become increasingly reliant upon goods and other inputs from south of the border. Unlike in the U.S., however, where the defense industrial base is substantially exempt from the strictures of the domestic COVID-19 shutdown orders, the A&D sector in Mexico has not been so exempted under the prevailing shutdown order there. The resulting supply disruption in Mexico has caused concern both within the Pentagon and within the U.S. A&D industrial base.

As U.S. officials and A&D industry leaders attempt to reach a solution to this problem with Mexican authorities, the cessation of A&D supply from Mexico provides additional ammunition to those contending that, in too many instances, U.S. companies' supply chains are too far overextended, particularly in A&D, where supply disruptions may directly affect national security. National security arguments aside, the fact is that A&D in the U.S. depends heavily upon supply from Mexico, and those ties to Mexico are not going anywhere soon.

As with the auto industry, any official reopening of the A&D supply chain by the government of Mexico, whenever it might happen, will not be a seamless process, let alone a cure-all, for

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the U.S. A&D industry at large. On the one hand, much has been said that Mexico has yet to feel the full impact of the coronavirus, and that the number of Mexican citizens infected to date, including in the densely populated areas where Mexico's manufacturing base is located, is far from reaching its future peak. Not surprisingly, then, reports suggest the widespread reluctance, and possibly outright refusal, of Mexico's workforce about returning to work *en masse* anytime soon. Moreover, as in the U.S., the overall financial and operational health of Mexico's supply base after such a lengthy period of suspended operations and diminished revenue, is far from predictable. And so there is no way to know how long it will take the supply base to return to pre-COVID-19 levels of performance.

In all likelihood, the restoration of the supply base to full functionality, and—insofar as certain suppliers are no longer in business or no longer have the capacity to perform at pre-COVID-19 levels—the re-composition of supply chains, will take significant time and will not be a pain-free process. There will be tension, tendered demands, and other actions taken up and down supply chains that will lead to commercial disputes, many of which may tend toward litigation.

At Butzel Long, our A&D and Supply Chain attorneys operate on the cutting edge of COVID-19 developments worldwide. We continue to navigate numerous clients through a broad range of pandemic-related supply-chain issues that they are facing with their customers and/or suppliers. Let us put our deep experience and expertise to work for you.

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