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President Trump Announces New Tariffs on All Products Imported from Mexico to Address Illegal Immigration; 5% Beginning June 10 and Potentially Rising to 25% by October 1

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President Trump yesterday tweeted an announcement that he is imposing a new escalating tariff on Mexican imports to address the illegal migration crisis at the Southern Border to pressure Mexico to take action to halt the flow of migrants through that country. In a follow-up White House Statement, the President invoked the authority granted to him under the International Emergency Economic Powers Act (IEEPA) to impose a 5 percent Tariff on all goods imported from Mexico starting on June 10, 2019.

The White House Statement added:

If the illegal migration crisis is alleviated through effective actions taken by Mexico, to be determined in our sole discretion and judgment, the Tariffs will be removed. If the crisis persists, however, the Tariffs will be raised to 10 percent on July 1, 2019. Similarly, if Mexico still has not taken action to dramatically reduce or eliminate the number of illegal aliens crossing its territory into the United States, Tariffs will be increased to 15 percent on August 1, 2019, to 20 percent on September 1, 2019, and to 25 percent on October 1, 2019. Tariffs will permanently remain at the 25 percent level unless and until Mexico substantially stops the illegal inflow of aliens coming through its territory. Workers who come to our country through the legal admissions process, including those working on farms, ranches, and in other businesses, will be allowed easy passage.

The President's authority to impose tariffs under the IEEPA is predicated on the existence of a national emergency that the President previously declared on the Southern Border crisis to enable him to fund building a wall there. This current action was apparently at least partially in response to the crossing of a large caravan of immigrants at the El Paso border on May 30th. The term "national emergency" is not defined in the IEEPA,

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leaving the President broad discretion.

The state of emergency declared by the President can be terminated by a privileged joint resolution of Congress (see 50 USC section 1703(b)). Senator Charles Grassley (R-Iowa), Chair of the Senate Finance Committee, called the President's action a "misuse of presidential tariffs authorities and contrary to Congressional intent" that would jeopardize passage of the US Mexico Canada Act (USMCA). He further declared that "trade policy and border security are separate issues."

The announcement was made shortly after another announcement yesterday by the US Trade Representative that it was submitting the formal Statement of Administrative Action on the USMCA to start the formal 30 periods after which Congress can vote on the agreement. Thus, Mexico has received very mixed signals on the same day as it also sent the USMCA for its corresponding approval to the Mexican Senate. In his daily press briefing, Mexico President Lopez Obrador, said he was in favor in continuation of the approval process of the USMCA despite the new tariffs. He said his foreign relations secretary will lead a delegation to seek a peaceful and negotiated solution to U.S. President Donald Trump's threat to impose stiff tariffs on goods from Mexico if the country doesn't do more to slow irregular migration.

However, López Obrador said late Thursday in a public letter addressed to Trump that "social problems are not solved with duties or coercive measures," and that Mexico is doing its part to avoid migration through its territory as much as possible, without violating human rights. The Mexican leader also urged Trump to "please, remember that I do not lack valor, that I am not a coward nor timorous but rather act according to principles."

Retaliatory tariffs from Mexico have not yet been announced, but could be expected based on their actions in response to earlier section 232 tariffs. Jesus Seade, the top Mexican negotiator, said the most logical response to would be an "eye for an eye", but then warned reciprocal measures would lead to a trade war "and that is the last thing that we want." Both the retaliatory tariffs on products such as pork, potatoes and whiskey imposed by Mexico, and the US Section 232 tariffs on steel and aluminum to which they were responsive, were recently lifted as a pre-condition for approval of the USMCA by all three parties.

The potential economic impact of these most recent tariff actions will be hard felt, especially in the automobile industry where Mexico and the United States have highly integrated supply chains. Mexico sends about 80 percent of its exports to the United States. According to 2018 export data, the initial impact of the five percent tariffs will be about 17.3 billion dollars. Auto shares dropped significantly after the announcement. As of the publication of this Client Alert, the Dollar traded at \$19.62 pesos per Dollar, a substantial increase from the previous day. In his White House Statement, the President indicated that he would view the potential adverse economic impact on automobile companies and others as an incentive for them to return jobs to the United States:

Should Mexico choose not to cooperate on reducing unlawful migration, the sustained imposition of Tariffs will produce a massive return of jobs back to American cities and towns. Remember, our great country has been the "piggy bank" from which everybody wants only to TAKE. The difference is that

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now we are firmly and forcefully standing up for America's interests.

On Friday a delegation led by the Foreign Minister Marcelo Ebrard, which an aide said might include Seade, will travel to Washington to try to defuse the situation before economic disaster strikes. It is not yet clear who the delegation will meet with.

Companies importing from Mexico should make formal "consumption entries" to make sure their goods are legally considered to have entered the U.S before the June 10th deadline. Additionally, anyone affected by this or any other tariff action and/or the USMCA should strongly consider contacting their Senators and Congressional representatives to share their positions.

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

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