

Administration to Impose New Tariffs on Goods Imported from Mexico

May 31, 2019

On Thursday, May 30, 2019, after the markets closed, President Trump announced on Twitter that the United States will impose tariffs on all goods from Mexico, in a bid to encourage Mexico to stem the flow of migrants from the southern border. The tariffs will be cancelled/removed if and when the Administration deems Mexico to have “taken action to dramatically reduce or eliminate the number of illegal aliens crossing its territory into the United States.” Until then, the tariffs will go into effect on June 10 at 5%, and will be ratcheted up month by month until they hit 25%, as follows:

- June 10, 2019: 5%
- July 1, 2019: 10%
- August 1, 2019: 15%
- September 1, 2019: 20%
- October 1, 2019: 25%

Currently, the new action is set to apply to “all goods imported from Mexico.” Given the recency and suddenness of the announcement, little concrete information has been made available regarding technical aspects of implementation, such as whether the Administration intends to apply the tariff solely on the basis of the fact that goods are being imported from Mexico (even if they originate elsewhere), or only on goods of Mexican origin (wherever they are imported from).

Further, to the extent that the Administration intends to impose the duties only on goods of Mexican origin, the Administration has not made clear whether they will determine such origin based on the current NAFTA origin/marketing rules, or based on the separate

Authors

Maureen E. Thorson
Partner
202.719.7272
mthorson@wiley.law

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“substantial transformation test” that has been used to determine the origin of goods imported from Mexico and elsewhere for purposes of administering the Section 301 duties on Chinese goods, Section 232 duties on steel products, and Section 201 duties on solar cells/panels and washing machines.

The imposition of tariffs stands in contrast with recent forward momentum on trade-related matters involving Mexico. On May 30, the Administration took steps to put the new U.S.-Mexico-Canada agreement before Congress for formal ratification. The Administration also recently reached an agreement with Mexico to lift the Section 232 duties on Mexican-origin steel products, as well as Mexico’s retaliatory tariffs. White House Chief of Staff Mick Mulvaney has told reporters that the new tariffs are “not part of a trade matter.” It is not immediately apparent whether Mexico will retaliate with new tariffs of its own.

This is a fluid and developing situation. For more information, please contact Maureen Thorson (mthorson@wiley.law | 202.719.7272) or any member of Wiley Rein’s International Trade Practice.