Indirect Tax Alert

Mexico takes retaliatory measures against US imposition of steel and aluminum tariffs

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On 23 March 2018, President Trump imposed additional duties for steel and aluminum, based on the United States Department of Commerce's investigations and recommendations under Section 232 of the *Trade Expansion Act of 1962*, as amended, which concluded that certain imports of these items threatened to impair the national security of the United States (US). Mexico, Canada and the European Union (EU) were temporarily excluded from these tariffs.

Notwithstanding the above, on 31 May 2018, the US announced that it would suspend the previous exemptions granted for the additional tariffs of 25% on specifically defined articles of steel and additional tariffs of 10% on specifically defined articles of aluminum goods imported into the US from the previously excluded North American Free Trade Agreement (NAFTA) countries and the EU.

Mexico, Canada and the EU swiftly announced retaliatory actions to be taken commensurate with the anticipated duty impacts to their respective country exports. On 5 June 2018, the Mexican Government published the list of products that, effective on such date, are subject to a retaliatory duty. Such duties only apply on permanent imports, therefore, temporary imports such as those conducted under the Manufacturing Industry, Maquiladora and Export Services (IMMEX) program will not be affected.



The Mexican Government stated that it considers that the measures adopted by the US constitute safeguards and therefore the US should have followed the notice and consultation procedure established under Chapter VIII: Emergency Measures under NAFTA. Since the US did not comply with its obligations under NAFTA, the Mexican Government has the right to impose measures that have substantially equivalent commercial effects to those adopted by the US, and these measures include:

- Suspension of preferential duty treatment on the importation of the listed goods
- ► Increase on the import duty rate for the listed goods originating in the US

These measures will apply until the US stops applying the additional tariffs on articles of steel and aluminum on Mexican imports. The Mexican Government issued the <u>official list of US products</u> affected by the retaliatory duties, which were imposed on an estimated US\$3 billion worth of US goods,

ranging from 7% to 25%. Relevant products subject to the retaliatory duties include steel products (25% duty), pork products (20% duty), fresh cheese (25%), apples (20%), and bourbon (25%).

The duties apply on products originating from the US which are imported on a permanent basis into Mexico, however, the temporary importation of these products which will be subsequently exported from Mexico (i.e., IMMEX) will not be subject to these additional duties.

The Mexican Government stated that it may adjust the list of products originating from the US which will be subject to the retaliatory duties. This may imply that Mexico will make periodic adjustments to the list of products in what is generally referred to as the "carousel method." Under the "carousel" method, products can be rotated on and off the list and this type of retaliation may serve as a powerful tool to pressure the US Government by generating incentives to mobilize affected industries in the US that can promote a solution to the issue.

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