

President Trump Threatens Tariffs on All Goods Imported from Mexico to Address “Border Crisis”

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On May 30, 2019, President Trump announced his intention to impose an additional tariff of five percent on all goods imported from Mexico beginning June 10, 2019, pursuant to the International Emergency Economic Powers Act (IEEPA). President Trump stated he intends to take such action in order to address the “illegal migration crisis” at the United States’ southern border, and the additional tariff will increase on a monthly basis through October 1, 2019 (and will remain in effect thereafter) unless and until Mexico takes “effective actions” to alleviate the crisis.

President Trump has not yet issued a formal Proclamation or Executive Order implementing the threatened tariff increases, and Mexican President Andrés Manuel López Obrador has sent a delegation to the United States for negotiations aimed at averting the imposition of the tariffs.

We provide below an overview of the measures threatened by the United States and possible next steps.

May 30 Statement Regarding “Emergency Measures to Address the Border Crisis”

President Trump’s May 30 announcement states there has been a “sustained influx of illegal aliens” through the United States southern border and claims that “Mexico’s passive cooperation in allowing this mass incursion constitutes an emergency and extraordinary threat to the national security and economy of the United States.” It further states, “[t]o address the emergency at the Southern Border,” the President is “invoking the authorities granted...by the International Emergency Economic Powers Act.”

The President has stated that he intends to take the following actions under IEEPA:

- **June 10: Five percent tariff.** Starting on June 10, 2019, the United States will impose a five percent tariff on “all goods imported from Mexico.” If the illegal migration crisis “is alleviated through effective actions taken by Mexico, to be determined in [the United States’] sole discretion and judgment, the Tariffs will be removed.”
- **July 1: Ten percent tariff.** “If the crisis persists”, the tariff will be raised to ten percent on July 1, 2019.

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- **August 1: 15 percent tariff.** If Mexico “still has not taken action to dramatically reduce or eliminate the number of illegal aliens crossing its territory into the United States,” the tariff will be increased to 15 percent on August 1, 2019.
 - **September 1: 20 percent tariff.** 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,” the tariff will be increased to 20 percent on September 1, 2019.
 - **October 1 and thereafter: 25 percent tariff.** If Mexico “still has not taken action to dramatically reduce or eliminate the number of illegal aliens crossing its territory into the United States,” the tariff will increase to 25 percent on October 1, 2019. The tariff will permanently remain at the 25 percent level “unless and until Mexico substantially stops the illegal inflow of aliens coming through its territory.”

The Trump administration has not provided any additional details regarding the proposed tariff action. However, President Trump will likely need to issue a formal Proclamation or Executive Order in the coming days to implement the tariffs. Such documents may provide details on the precise timing and scope of the tariffs, and whether the administration will establish a process whereby specific products can be excluded from the tariff based on requests from interested parties. The administration has established such exclusion processes in connection with the additional tariffs imposed on steel and aluminum products under Section 232 of the Trade Expansion Act of 1962, and on nearly half of Chinese imports under Section 301 of the Trade Act of 1974.

US business groups and Members of Congress have criticized the President’s proposed tariffs. Senate Finance Committee Chairman Chuck Grassley (R-IA) stated that “[t]rade policy and border security are separate issues. This is a misuse of presidential tariff authority and counter to congressional intent[.]” Chairman Grassley also warned that imposition of the threatened tariffs “would seriously jeopardize” US congressional approval of the US-Mexico-Canada Agreement (USMCA), which already faces an uphill battle in Congress. Groups such as the US Chamber of Commerce (Chamber), the National Association of Manufacturers, and the Business Roundtable have similarly warned that the threatened tariffs would have significant adverse consequences for US businesses and consumers, and would jeopardize congressional approval of the USMCA. The trade press has reported the Chamber may take legal action in response to the President’s action.

Outlook

In response to President Trump’s announcement, Mexican President Andrés Manuel López Obrador on May 31 sent a delegation to the United States, led by Mexico’s Foreign Affairs Secretary Marcelo Ebrard, to attempt to negotiate an agreement with the United States to avert the imposition of the tariffs. In a May 30 letter, President López Obrador urged President Trump to resolve the issue by “deepening the dialogue” with Mexico, stating “[s]ocial problems are not resolved by taxes or coercive measures.” President López Obrador’s letter does not threaten to impose retaliatory measures on US goods (rather, it states “I do not believe...in the ‘eye for an eye’ precept”), nor does it threaten to abandon the proposed USMCA, which was submitted to the Mexican Senate for consideration on May 30. Rather, President López Obrador stated in a May 31 press conference that President Trump’s announcement “does not stop the process that was already started to ratify the [USMCA]. We’re going to continue.” Mexico’s Deputy Foreign Minister for North America Jesus Seade warned on May 30 that Mexico would respond “forcefully” if tariffs ultimately were imposed, but did not elaborate and emphasized that Mexico would like to seek a negotiated solution with the United States to address the issue of illegal border crossings.

The Trump administration has not reacted publicly to Mexico’s recent statements. However, Acting White House Chief of Staff Mick Mulvaney and Acting Homeland Security Secretary Kevin McAleenan indicated on May 30 the tariffs could potentially be avoided or removed quickly if the United States deems Mexico is cooperating to address US concerns. Thus, the imposition of the threatened tariffs might be averted as a result of bilateral negotiations in the coming days. Nevertheless, the Trump administration has demonstrated it is willing to take significant unilateral actions, even against close US trading partners such as Mexico, and has provided only a short window of 11 days for the two sides to reach a negotiated solution on a complex and politically sensitive issue that is not normally linked to trade policy.

President Trump's announcement is available [here](#). An English translation of President López Obrador's letter in response is available [here](#).

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