



## NEWSLETTER INTERNATIONAL TRADE MAY – JUNE 2023



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### DOMESTIC SCOPE

**Preliminary Resolution of the antidumping proceeding on imports of vinyl chloride polymer rigid film originated in China, regardless of the country of export ("Preliminary Resolution").**

On May 9, 2023, the Unit of International Trade Practices of the Ministry of Economy ("UPCI", for its acronym in Spanish) published in the Federal Official Gazette ("Official Gazette") the Preliminary Resolution.

As background, on January 31, 2022, Industrias Plásticas Internacionales, S.A. de C.V., and Plami, S.A. de C.V. ("IPISA" and "Plami", respectively, or collectively, the "Petitioners") requested the initiation of the administrative proceeding for unfair international trade practices, in its modality of price discrimination, on imports of rigid vinyl chloride polymer film (rigid PVC), including definitive and temporary, originated in China, regardless of the country of export. As a result, on August 12, 2022, the Resolution of Initiation of the antidumping investigation (the "Resolution of Initiation") was published in the Official Gazette. It was determined that the period of investigation was from October 1, 2020 to September 30, 2021, and the period for the analysis of injury was from October 1, 2018 to September 30, 2021.

Based on the results obtained from the analysis of the arguments and evidence, the Ministry of Economy preliminarily determined that there is sufficient evidence to support that during the investigated period the imports of rigid PVC originated in China were made under conditions of price discrimination and caused a material injury to the domestic industry of the similar product.

It was noted that the imports of the product under investigation were made with a price discrimination margin of 57.63%. Furthermore, the prices of the investigated imports were below the average price of sales to the internal market of the domestic industry throughout the analyzed period, with margins of undervaluation of 19% in the period from October 2018 to September 2019, 20% in the period from October 2019 to September 2020 and 33% in the investigated period. The above, considering that the low-price level of imports of the product under investigation observed in the analyzed period is associated with increasing volumes of the same, a greater participation in the domestic market and the displacement of sales of merchandise manufactured by IPISA and Plami.

Due to the preliminary affirmative determination on the existence of price discrimination and injury to the domestic rigid PVC industry and taking into account the vulnerability of the domestic industry in the face of the competition of imports under conditions of price discrimination, the Ministry of Economy decided to impose a provisional antidumping duty to prevent further injury to the domestic industry during the investigation.

The Ministry of Economy decided that the dumping investigation will continue and imposed a provisional duty of 57.63% on imports of rigid PVC, including definitive and temporary imports, originated in China, regardless of the country of export, that enter through the tariff code 3920.49.99 of the Tariff of the Law of General Import and Export Taxes ("TIGIE", for its acronym in Spanish), or through any other tariff code.

Pursuant to Article 66 of the Foreign Trade Law, importers who, in accordance with the Preliminary Resolution, are required to pay provisional antidumping duties will not be required to pay such duties if they prove that the country of origin of the products is other than China.

Finally, the interested parties identified in the proceeding, have a period of 20 business days to appear before the Ministry of Economy to submit the arguments and additional evidence they deem pertinent.

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### **Final Resolution of the sunset review of the antidumping duty imposed on imports of high carbon ferromanganese, originated in Korea, regardless of the country of export ("Final Resolution").**

On May 16, 2023, the UPCI published in the Official Gazette the Final Resolution that declares concluded the sunset review of the definitive antidumping duty imposed on the definitive and temporary imports of high carbon ferromanganese ("ferromanganese") originated in Korea, regardless of the country of export, that enter through the tariff code 7202. 11.01 and under Eighth Rule through tariff code 9802.00.13 of the TIGIE, or through any other.

As background, on December 15, 2016, the Final Resolution of the antidumping investigation on imports of ferromanganese originated in Korea, regardless of the country of export, was published in the Official Gazette. By means of said Resolution, the Ministry of Economy imposed a definitive antidumping duty of 35.64% on the definitive and temporary imports of ferromanganese.

On October 13, 2020, the Notice of effectiveness of the antidumping duties was published in the Official Gazette. Through this notice, domestic producers and any person with legal interest were informed that the definitive antidumping duties imposed on the products listed in such Notice would be eliminated as of December 16, 2021, unless a domestic producer expressed in writing its interest, before November 9, 2021, to have a sunset review proceeding initiated. As a result, on October 22, 2021 Compañía Minera Autlán, S.A.B. de C.V. ("Minera Autlán"), expressed its interest in the initiation of the sunset review by the Ministry of Economy. Minera Autlán proposed a review period from July 1, 2020 to June 30, 2021.

On December 1, 2021, the Ministry of Economy published in the Official Gazette the Resolution of initiation of the sunset review of the antidumping duty imposed on imports of ferromanganese originated in Korea, regardless of the country of export. The examination period was set as October 1, 2020 to September 30, 2021 and the analysis period as October 1, 2016 to September 30, 2021.

It is important to point out that no Korean exporting producer company or the Korean government appeared in the proceeding. Therefore, the Ministry of Economy conducted the review on the continuation or recurrence of the dumping based on the information and evidence submitted by Minera Autlan, as well as with the information that it itself obtained pursuant to the provisions of Articles 54, second paragraph and 64, last paragraph of the Foreign Trade Law.

In response to a request of information concerning injury matters, Minera Autlan submitted an estimate of the dumping margin, considering the export price from Korea to Thailand. It argued that in order to be consistent in the analysis of the consequences of the elimination of the antidumping duties on the dumping and injury effects and, as requested by the Ministry of Economy, through official letter number UPCI.416.22.0384 of March 8, 2022 , it proposed as an alternative for the calculation of the export price, the price at which the exports from Korea to Thailand are made.

Finally, by means of the Final Resolution, the sunset review was declared concluded. The Ministry of Economy concluded that it did not have the necessary and sufficient elements, based on positive evidence, to support that, if the antidumping duties were eliminated, dumping would continue or recur in the exports to Mexico of ferromanganese originated in Korea. By virtue of the above, it was inappropriate to rule on the continuation or recurrence of injury to the domestic industry, since it did not have the necessary elements that would allow setting up the first element (continuation or recurrence of dumping) that would lead to the study and determination of the continuation or recurrence of the unfair practice. Therefore, the Ministry of Economy ordered the elimination of the definitive antidumping duty of 35.64%.

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## Entry in force of the Agreement that establishes the goods whose importation is subject to regulation in matters of forced or compulsory labor.

As we noted in our [First Bimonthly International Trade Newsletter for 2023 by SMPS Legal](#), on February 17, 2023, the Ministry of Labor and Social Welfare ("STPS", for its acronym in Spanish) and the Ministry of Economy published in the Federal Official Gazette the "*Agreement that establishes the goods whose importation is subject to regulation by the Ministry of Labor and Social Welfare*" (the "Agreement").

The purpose of the Agreement is to establish the tariff codes of the TIGIE corresponding to the goods that will be subject to regulation by the STPS with respect to their total or partial production through the use of workers in forced or compulsory labor situations, including forced or compulsory child labor<sup>1</sup>.

The Agreement establishes an innovative mechanism through which the STPS, as the authority responsible for implementing the procedure regarding the use of forced or compulsory labor in the production of goods, in collaboration with the Ministry of Economy, the Ministry of Finance and Public Credit ("SHCP", for its acronym in Spanish) and through the exchange of information with other Mexican and foreign authorities, will be able to investigate and restrict the importation into Mexican territory of goods that have been produced wholly or partially with forced or compulsory labor.

It is important to note that the issuance of the Agreement responds to and complies with the commitment adopted by Mexico in Article 23.6 of the Agreement between the United States, Mexico and Canada ("USMCA"), which obligates its member countries to establish mechanisms to prohibit the importation of goods into their territory produced in whole or in part through forced labor.

In our First Bimonthly International Trade Newsletter for 2023, we indicated that the Agreement would enter into force 90 calendar days after the date of its publication in the Federal Official Gazette.

In connection with the above, on May 18, 2023, the Agreement entered into force, and on the same date, the STPS and the Ministry of Economy published the *Guide for the Instrumentation to Restrict the Importation of Goods Produced with Forced or Compulsory Labor* (the "Guide"), which explains the procedure, stages, deadlines and criteria to determine the existence or not of forced labor in the production of goods for importation.

Under the terms of the Agreement and the Guide, investigations may be initiated by request of any individual or legal entity legally incorporated in Mexico, or ex officio by the STPS.

The STPS will initiate the investigation when it has formally admitted the request for review, or it determines *ex-officio* that it has sufficient evidence to presume that certain goods were produced with forced labor. In either case, the STPS must observe the following procedure:

1. Request of information to foreign authorities. - The STPS shall request from the competent authorities or institutions in matters of forced or compulsory labor of the country of origin of the goods under review, or of other interested countries because they are territories of transit or final destination of such goods, relevant information on such goods, including investigations or resolutions they have issued in this regard.  
In the event that the consulted authorities hands to the STPS documentary support of a final determination or resolution that confirms the existence of forced labor in the production of the goods under review, the STPS will adopt such resolution in its terms and will restrict its importation into Mexico. In this case, the request for review will be considered as concluded.
2. Internal investigation by the STPS. - In the event that the authorities consulted by the STPS do not have a resolution on the identified goods, the STPS will continue with the investigation procedure. For such purpose, it will notify the importer of the identified goods of the initiation of the review in order for the importer to submit within 20 working days any information or documentation it deems relevant.

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<sup>1</sup> Pursuant to Article 2, Section VII of the Agreement, forced or compulsory labor is defined as: "*Any work or service imposed upon any person, including minors, under the threat of any penalty and for which such person has not offered himself voluntarily, in accordance with Article 2(1) of the Forced Labor Convention, 1930 (Convention 29) of the International Labor Organization*".

The STPS may request additional information from the petitioner or interested parties, or clarifications on such information, at any time during the review period. Likewise, the STPS, in coordination with the Ministry of Foreign Affairs ("SRE", for its acronym in Spanish), may request the cooperation of labor authorities in other countries through the diplomatic representations of Mexico abroad.

3. Determination by the STPS. - The STPS must issue a determination within 180 business days from the date of filing of the application. This period may be extended once for an equal period. The determination will be published by the STPS.
  - a. In the event that the STPS concludes the existence of forced or child labor in the production of the goods reviewed, this determination will be added to the list available on its website, so that importers are aware of the goods and their tariff codes whose importation will be prohibited. Likewise, the STPS will inform the Mexican National Customs Agency ("ANAM", for its acronym in Spanish) of the issuance of this determination so that the restriction on the importation of such goods into Mexico may be implemented, in accordance with its internal procedures.
  - b. In the event that the STPS concludes that there is no forced or child labor in the manufacturing of the goods reviewed, it will conclude the procedure and file the case. In this event, the petitioner will have the possibility to file a new application, with new evidentiary elements.
4. Review of a determination. - In the event that any person, national or foreign, requests the review of a determination issued by the STPS for the purpose of invalidating it on the grounds that the use of forced labor in the manufacturing of such goods has ceased, the petitioner must initiate the review procedure. Therefore, the petitioner must submit the information and documentation that proves in an irrefutable manner that the use of forced labor in the manufacturing of such goods has ceased. For such purpose, the STPS will initiate the review procedure in accordance with the terms and criteria indicated above.

The STPS will determine the existence of forced labor in the manufacturing of goods for import in terms of the Forced Labor Indicators of the International Labor Organization ("ILO"), which are set forth below:

- Abuse of vulnerability.
- Deception.
- Restriction of movement.
- Isolation.
- Physical and sexual violence.
- Intimidation and threats.
- Withholding of identity documents.
- Wage withholding.
- Debt bondage.
- Abusive living and working conditions.
- Excessive overtime.

The identification by the STPS of any of the indicators described above in the manufacturing of goods to be imported into Mexico may imply the existence of forced labor.

Finally, the issuance of the Agreement and the mechanism established for the STPS to determine whether imports into Mexican territory are linked to forced labor implies the need for Mexican manufacturing companies to carry out a process of traceability of production stages, identifying the origin of the inputs used and the labor conditions involved in the elaboration of such inputs.

At SMPS Legal we have a specialized legal team to support our clients in the review of the manufacturing process of their products made from imported inputs, in order to help them to identify possible risks linked to the existence of forced labor in the production of goods imported into the national territory.



## **Final Resolution of the antidumping administrative proceeding on imports of high carbon ferromanganese, originated in India, regardless of the country of export.**

On June 1, 2023, the UPCI published in the Official Gazette the Final Resolution that declared concluded the investigation procedure regarding unfair international trade practices, in its modality of price discrimination, on imports of high carbon ferromanganese ("ferromanganese"), including definitive and temporary imports, as well as those entering under Eighth Rule for the application of the TIGIE, originated in India, regardless of the country of export.

As background, on October 29, 2021, Compañía Minera Autlán, S.A.B. de C.V. ("Minera Autlán") requested the initiation of the proceeding. As a consequence, on March 14, 2022, the UPCI published in the Official Gazette the Resolution initiating the antidumping investigation, and set as period of investigation from July 1, 2020, to June 30, 2021 and as injury assessment period from July 1, 2018 to June 30, 2021.

On September 1, 2022, the Ministry of Economy published in the Official Gazette the Preliminary Resolution of the antidumping investigation through which it was determined to continue with the administrative investigation procedure and imposed a provisional antidumping duty of 38.38% on imports of ferromanganese originated in India, regardless of the country of export.

From the results of the analysis of the arguments and evidence described in the Resolution, the Ministry of Economy concluded that there are grounds to support that, during the investigated period, the imports of ferromanganese originated in India were made under conditions of price discrimination and caused material injury to the domestic industry of the like product. Among the main elements, the following stand out:

- Imports of the product under investigation were made with a price discrimination margin of 38.38%. In the analyzed period, imports originated in India increased their participation on total imports by 15 percentage points, going from a 60% contribution in the period July 2018-June 2019 to 75% in the investigated period.
- Imports under investigation increased both in absolute and relative terms.
- The average price of the investigated imports was below the average price of the sales in the domestic market of the national industry throughout the analyzed period in percentages that ranged between 10% and 18%, which, in addition, decreased during the analyzed period. The above, considering that the low-price level of the investigated imports observed in the analyzed period is associated with increasing volumes of these imports, a greater participation in the domestic market and the displacement of sales of merchandise manufactured by Minera Autlán.

The Ministry of Economy imposed a definitive antidumping duty of 38.38% on imports of ferromanganese, including definitive and temporary imports, as well as imports that enter under the Eighth Rule, originated in India, regardless of the country of export, that enter under tariff code 7202.11.01 and under the Eighth Rule under tariff code 9802.00.13 of the TIGIE, or under any other tariff code.

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## **Resolution that declares the initiation of the sunset review and the *ex-officio* review of the antidumping duty imposed on imports of metallized plastic balloons originated in China, regardless of the country of export.**

On June 7, 2023, the UPCI published in the Official Gazette the Resolution that declares the initiation of the administrative procedure for the sunset review and the *ex-officio* review of the antidumping duty imposed on imports of metallized plastic balloons originated in China, regardless of the country of export, imported through the tariff codes 9503.00.23 and 9505.90.99 of the TIGIE, or through any other.

As background, on June 7, 2018, the Final Resolution of the antidumping investigation on imports of metallized plastic balloons originated in China was published in the Official Gazette. By means of said Resolution, the Ministry of Economy determined to impose a definitive antidumping duty of \$37.8 dollars per kilogram.

In accordance with the applicable legislation, the definitive antidumping duties will be eliminated within five years from their entry into force, unless the Ministry of Economy has initiated, before the end of such term, a sunset review due to the expression of interest of one or more domestic producers. Therefore, on November 2, 2022, the Notice on the effectiveness of antidumping duties was published in the Official Gazette.

For this reason, on April 27, 2023, Convertidora Industrial, S.A.B. de C.V. ("Conver"), expressed its interest in the initiation by the Ministry of Economy of a sunset review of the definitive antidumping duty imposed on imports of metallized plastic balloons originated in China, and proposed as review period the period from January 1 to December 31, 2022.

Upon compliance with the provisions of the relevant legislation, the UPCI declared the initiation of the administrative proceeding of the sunset review and the *ex-officio* review of the definitive antidumping duty imposed on imports of metallized plastic balloons originated in China, regardless of the country of export. The period of review and *ex-officio* review was set from January 1 to December 31, 2022, and the period of analysis was set from January 1, 2018 to December 31, 2022.

In terms of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Antidumping Agreement") and the Foreign Trade Law, the definitive antidumping duty will remain in effect while the sunset review and *ex-officio* review proceedings are being processed.

Finally, in accordance with the Antidumping Agreement and the Foreign Trade Law, domestic producers, importers, exporters, foreign legal entities or any other person that proves to have legal interest in the outcome of the sunset review procedure and the *ex-officio* review, will have a period of 28 business days to prove their legal interest and submit the response to the forms established for such purpose, as well as the arguments and evidence they deem convenient.

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### **Resolution that declares the initiation of the antidumping investigation proceeding on imports of threaded steel rods originated in China, regardless of the country of export.**

On June 9, 2023, the UPCI published in the Official Gazette the Resolution by which the interested party's request was accepted and the initiation of the antidumping administrative proceeding on imports of threaded steel rods originated in China, regardless of the country of export was announced.

As background, on May 24, 2023, Clavos Nacionales México, S.A. de C.V. ("Clavos México") and Clavos Nacionales CN, S.A. de C.V. ("Clavos CN"), jointly (the "Petitioners"), requested the initiation of the administrative proceeding of investigation for unfair international trade practices, in its modality of price discrimination, on imports of threaded steel rods, low, medium carbon or alloy, unhardened, with diameter equal to or greater than 6.4 mm (1/4 inch), but less than 38.1 mm (1½ inch) and length equal to or greater than 152.4 mm (6 inches) originated in China, regardless of the country of export ("threaded steel rods"). Petitioners proposed as period of investigation from January 1 to December 31, 2022 and as period of the injury analysis from January 1, 2019 to December 31, 2022.

The Petitioners are mainly engaged in the manufacture, production, transformation and trade in general of hardware, ironmongery and construction articles, among them, threaded steel rods. They stated that, during the analyzed period, they observed that a great amount of threaded steel rods of Chinese origin entered into the Mexican market at very low prices compared to the production costs of the threaded steel rods they manufacture, as well as the prices of imports from other origins, causing harm to their relevant economic and financial indicators due to the pressure caused by the price of such imports, carried out under conditions of price discrimination.

In this regard, the Ministry of Economy determined that the request of the interested party was accepted and declared the initiation of the antidumping investigation on the imports of threaded steel rods originated in China, regardless of the country of export, that enter through the tariff codes 7318.15.99 and 7318.19.99 of the TIGIE, or through any other. It also established as investigation period from January 1 to December 31, 2022, and as injury analysis period from January 1, 2019 to December 31, 2022.

In accordance with the Antidumping Agreement and Article 53 of the Foreign Trade Law, domestic producers, importers, exporters, foreign legal entities or any other person that may have a legal interest in the outcome of the investigation, have a period of 23 business days to prove their legal interest and submit their response through the official form established for such purpose, as well as the arguments and evidence they deem pertinent.

Finally, the Ministry of Economy may impose, if applicable, the definitive antidumping duties on the products subject to the investigation that have been imported during the 3 months prior to the date of application of the provisional measures, in accordance with the provisions of articles 10.6 of the Antidumping Agreement and 65A of the Foreign Trade Law.

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### **Decree modifying the customs duties applicable to white corn.**

On June 23, 2023, the Ministry of Economy published in the Official Gazette the Decree amending several legal provisions related to the customs duties applicable to white corn.

By means of such Decree, the tariff code 1005.90.04 of the "Decree by which the payment of import duties is exempted and administrative facilities are granted to several goods of the basic food basket and basic consumption of families", published in the Official Gazette on January 6, 2023 and its subsequent amendment, was eliminated.

Likewise, the customs duty on tariff code 1005.90.04 was temporarily modified. The modification consists of imposing a 50% duty on imports and exports of white corn (flour).

The Decree entered into force the day after its publication in the Official Gazette and will be in force until December 31, 2023.

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### **Agreement that amends the Commercial Identification Numbers ("NICO", for its acronym in Spanish) and its correlation tables.**

On June 30, 2023, the Ministry of Economy published in the Official Gazette the Agreement that amends the NICOs and their correlation tables. The Agreement became effective on July 1, 2023.

By means of said Agreement, the "Agreement whereby the Commercial Identification Numbers (NICO) and their correlation tables are made known", published by the Ministry of Economy in the Official Gazette of August 22, 2022, is amended.

It is important to mention that the NICO is added to the tariff code with the purpose of facilitating the identification of goods and providing more accurate statistical information on foreign trade.

The amendments consist of: i) the creation of 53 NICOs; ii) the removal of 18 NICOs from various chapters of the General Import and Export Tax Law ("LIGIE", for its acronym in Spanish); iii) the modification of the annotations of chapter 72; and iv) the creation of two annotations corresponding to chapters 61 and 62.

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## **REGIONAL SCOPE**

### **Decision No. 114 of the Administrative Commission of the Free Trade Agreement between the United Mexican States and the Republic of Colombia ("Mexico-Colombia FTA").**

On May 30, 2023, the Ministry of Economy published in the Official Gazette the Agreement that announces Decision No. 114 of the Administrative Commission of the Mexico-Colombia FTA, adopted on April 13, 2023.

The Administrative Commission of the Mexico-Colombia FTA, in compliance with the provisions of Articles 6-24 and 20-01 thereof, decided to grant two temporary waivers from May 31, 2023 to June 28, 2023, and from May 31, 2023 to May 30, 2024, respectively, for the use of materials produced or obtained outside the free trade zone in the manufacture of certain textile and apparel goods, so that these goods may receive the preferential customs treatment established in the Mexico-Colombia FTA.

The above, based on the opinion dated April 10, 2023 of the Regional Integration Committee of Inputs ("CIRI", for its acronym in Spanish), which determined the inability of the producer to dispose of the indicated materials. The CIRI's functions are to evaluate the inability of producers to obtain inputs in terms of timeliness, volume, quality and prices in accordance with equivalent transactions.

For the products that benefit from the waivers, the certificate of origin must cover only products classified under the same subheading (at the 6-digit level). Therefore, if an exporter ships products classified under different subheadings, it must complete a certificate for each one.

The agreement entered into force the day after its publication in the Official Gazette.

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### **The United States invokes the USMCA and requests Mexico to review the alleged denial of rights to workers at Draxton's facility in Irapuato, Guanajuato.**

On May 31, 2023, the United States requested, in terms of Annex 31-A of the USMCA, that Mexico conduct a review to determine whether a Denial of Rights is being committed at the Draxton Mexico, S. de R.L. de C.V. ("Draxton") facility in Irapuato, Guanajuato. As defined in Article 31-A.2 of the USMCA, a Denial of Rights occurs when the right of free association and collective bargaining is denied to workers in accordance with the laws necessary to comply with a Party's obligations under the USMCA.

As background, the USMCA contains the strongest and most extensive labor provisions of any trade agreement. Chapter 23 of the USMCA includes the Labor Rapid Response Mechanism ("LRRM"), an unprecedented dispute resolution procedure in trade agreements. It is the first procedure of its kind and is applicable to the rights recognized in Annex 23-A of the USMCA, in which Mexico committed to guarantee that its workers may have access to genuine collective bargaining, for which the existence of effective union democracy and the full exercise of freedom of association are essential. The LRMM differs from other dispute resolution mechanisms in the sense that trade sanctions are not applicable to the productive sector, but apply directly to companies, and these could be extended to the value chain of manufactured products, thus directly affecting their exports. In addition, the LRMM is distinguished from other mechanisms by its speed, as it can resolve a dispute in approximately four months.

The United States received information that appeared to indicate multiple serious denials of labor rights at Draxton, including the termination of a union official and interference with related activities for the purpose of controlling the union. When workers at the center attempted to organize a new union, led by the former official, they were harassed, surveilled and intimidated, and the former union official was subjected to threats and violence at his home. In addition, the workers did not receive their collective bargaining agreement prior to voting on it in 2022 and still have not received it.

After conducting an exhaustive investigation, the Office of the United States Trade Representative ("USTR") requested, on its own motion, the Mexican Government to review the following issues:

- All actions taken by Draxton to retaliate against certain individuals based on their union activity, including dismissals.
- All actions taken by Draxton to interfere with union activities aimed to support, dominate or control the National Union of Metal-Mechanical and Steel Workers, Similar and Related Industries ("CONASIM-BJG", for its acronym in Spanish) at Draxton's facility, including demonstrating favoritism and giving CONASIM-BJG a role in hiring.



- All actions taken by Draxton or CONASIM-BJG that interfere with the rights of workers to organize, select and participate in a union of their choice, including actions to discourage organizing efforts or support for the National Independent Union of Automotive Workers ("SINTTIA", for its acronym in Spanish), such as harassment, intimidation, threats, interrogations, coercive statements and surveillance.
- All actions involving violence or threats of violence against persons participating in SINTTIA's efforts to organize on behalf of Draxton workers.
- Failure to deliver to the workers their 2022 collective bargaining agreement before or after the vote to approve it.

The actions covered by the request for review include those of any person or legal entity, including Draxton and CONASIM-BJG, and any of their employees, representatives or agents.

It is important to note that this request represents the ninth occasion on which the United States has formally invoked the LRRM and the second time it has done so as an ex officio action. It is also the fourth time in 2023 that the United States has requested Mexico's review under the LRRM.

Mexico has 10 calendar days to notify the United States of its intention to conduct the requested review, and if it accepts the request, Mexico has 45 days following the filing of the request to remedy the situation. In the event that Mexico does not choose to conduct a review or fails to notify within the 10-day period, the United States may request a Rapid Response Labor Panel to conduct a separate verification and determination pursuant to Article 31-A.5. of the USMCA.

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## MULTILATERAL SCOPE

### **Argentina files a complaint in the WTO regarding U.S. measures on certain tubular goods.**

On May 25, 2023, Argentina requested consultations with the United States under the World Trade Organization ("WTO") regarding the definitive antidumping measure imposed on oil country tubular goods ("OCTG") from Argentina, as well as certain provisions of U.S. law relating to cross-cumulation of imports when assessing injury caused by imports in antidumping investigations and countervailing duties.

Argentina claims that the challenged measures are inconsistent with several provisions of the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Antidumping Agreement") and the General Agreement on Tariffs and Trade 1994 ("GATT 1994"). This is the third dispute brought by Argentina in the WTO concerning U.S. antidumping measures on OCTG.

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### **India appeals panel report on customs treatment on technology products.**

On May 17, 2023, India notified its decision to appeal the panel report in the dispute "India - Tariff Treatment of Certain Goods in the Information and Communications Technology Sector" raised by Japan. The panel report was circulated to WTO Members on April 17, 2023 and the appeal was circulated to WTO Members on May 25.

On May 10, 2019, Japan requested consultations with India regarding India's tariff treatment of certain products: mobile (cellular) telephones and other wireless network telephones; base stations; apparatus for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing machines; and parts of telephones and other machines for transmitting or receiving voice, images or other data. Japan argued that the measures at issue appear to be inconsistent with paragraphs 1(a) and 1(b) of Article II of GATT 1994.

On May 15, 2019, the United States requested to be associated with the consultations; on May 16, 2019, the Chinese Taipei; on May 17, 2019, Canada and Singapore; on May 21, 2019, China, Thailand and the European Union, respectively.

However, as there is still no agreement among WTO Members to fill the vacancies in the Appellate Body, there is no Appellate Body Section currently available to deal with this appeal.

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### **Dispute settlement panel established to examine EU duties on Indonesian steel products.**

On May 30, 2023, at a meeting of the Dispute Settlement Body ("DSB"), WTO Members agreed to establish, at the request of Indonesia, a dispute settlement panel to examine antidumping measures imposed by the European Union ("EU") on imports of cold-rolled stainless steel flat products from Indonesia.

As background, on January 24, 2023, Indonesia requested consultations with the EU regarding the antidumping and countervailing duties imposed by the EU on imports of cold-rolled stainless steel flat products from Indonesia.

Indonesia alleged that the countervailing measures at issue appeared to be inconsistent with the Agreement on Subsidies and Countervailing Measures, the Antidumping Agreement, the GATT 1994 and the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU").

It is important to mention that this is the second time that Indonesia requested the establishment of a WTO dispute settlement panel. On April 17, 2023, Indonesia requested the establishment of a panel. At its meeting on April 28, 2023, the DSB postponed the establishment of a panel. At that meeting the EU said that it was not willing to accept the establishment of a panel. Indonesia said it had the right to protect its national interests and urged the EU to bring its measures into compliance with WTO provisions.

The EU regretted Indonesia's decision to request the establishment of a panel for a second time and hoped that its measures would be found to be in compliance with WTO rules.

Notwithstanding, on May 30, the DSB agreed to establish a panel. India, the United States, the United Kingdom, Turkey, Japan, Korea, Brazil, Canada, Argentina, Ukraine, Singapore, Thailand, Russia and China reserved their right to participate in the consultations.

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### **Issuance of report on China's duties on Japanese steel products by WTO dispute settlement panel.**

On June 19, 2023, the WTO circulated the report prepared by the panel in the case brought by Japan "*China - Antidumping Measures on Stainless Steel Products from Japan*".

On June 11, 2021, Japan requested consultations with China regarding measures imposing antidumping duties on stainless steel plate, hot-rolled coils and hot-rolled sheets from Japan. Japan claimed that the measures in question appear to be inconsistent with the Antidumping Agreement and GATT 1994.

On 19 August 2021, Japan requested the establishment of a panel. The DSB, at its meeting on 30 August 2021, postponed the establishment of a panel. At its meeting on 27 September 2021, the DSB established a panel. Australia, Brazil, Canada, Korea, Canada, Russia, India, Mexico, the Chinese Taipei, the European Union, Saudi Arabia, the United States, the United States, the European Union and Vietnam reserved their third-party rights.

On 27 June 2022, the Chairman of the Panel informed the DSB that, due to the complexity and magnitude of the dispute and the need to ensure that the parties had sufficient time to prepare and present their arguments, the Panel expected to issue its final report to the parties in the first quarter of 2023.

On April 11, 2023, Japan and China informed the DSB that they had agreed in this dispute to the Multi-Party Arbitral Proceeding on Interim Appeal pursuant to Article 25 of the DSU. Japan and China initiated this proceeding in order to give effect to the communication and to establish a framework for an arbitrator to resolve any appeal of any final panel report issued in this dispute, in the event that the Appellate Body was not in a position to do so.

Sincerely,

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