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Mexico Takes Steps to Reopen

Legal Update

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On May 14, 2020, Mexico's Ministry of Health published an accord to establish a strategy to reopen the country. This accord was modified on May 15, 2020. The reopening will occur in three phases.

First Phase

On May 18, 2020, all activities may resume in municipalities that have no COVID-19 cases and do not share a border with other municipalities that have COVID-19 cases. The Ministry of Health will publish a list of these municipalities no later than May 17, 2020.

Second Phase

The second phase will be from May 18 to May 31, 2020, and it will consist of taking actions to prepare for a general reopening. These activities will include elaboration of sanitary protocols for the safe restart of activities, training of personnel for safety in the workplace, reconditioning spaces and production processes, and the implementation of access filters, sanitation and hygiene practices in the workplace. The Ministry of Health may mandate additional preparatory activities.

Third Phase

The third phase will start on June 1, 2020. The accord implements a "traffic light" system by regions to assess weekly the risk related to the reopening of activities in each state. Companies in regions that are green or yellow may restart all activities. For regions that are orange, companies with non-essential activities may restart reduced operations. The accord provides no guidance on what will be considered reduced operations. Only essential activities will be permitted in regions in red. The accord does not specify how the "traffic light" system will be maintained and updated.

Newly Declared Essential Activities

Also effective June 1, 2020, construction, mining and manufacturing of transportation equipment will be considered essential activities. The accord does not define what is considered transportation equipment, but based on the amendment published on May 15, 2020, we believe this will cover all the OEMs manufacturing any kind of motor vehicle destined for transportation as well as their suppliers. The amendment imposes a series of requirements for companies in these industries to start operations on June 1, including:

- Beginning on May 18, 2020, they must present health safety protocols according to the guidelines issued by Mexico's Ministries of Health, Economy and Labor.
- Between May 18 and June 1, 2020, they must establish protocols and mechanisms of health safety according to the guidelines for health safety in the workplace issued by the Ministry of Health in coordination with the Ministries of Economy and Labor and Mexico's Institute of Social Security (IMSS).
- If the process is concluded and approved before June 1, 2020, the company may start operations.

It is unclear what guidelines must be followed by companies. We expect that the Ministry of Health and other authorities will publish those guidelines soon. The accord, as amended, suggest that the protocols prepared by the companies must be filed and approved. However, there is another provision in the amendment stating that this will be a good faith process, but that if it is not followed, companies that put the health of their employees at risk will be closed down. We believe no filing will be required, but companies must pay attention to any further publications.

The amendment states that companies in the automotive industry for exportation and their suppliers must also apply the protocols required by their countries of origin. This provision is also unclear, but we believe it requires OEMs and their suppliers to apply in Mexico the safety protocols they may be required to apply by the countries where their parents or affiliates are located.

Takeaway

The plan to reopen lacks clarity on several aspects. Companies will need to stay tuned for further developments to determine when they will be able to reopen and comply with all applicable requirements.