

FOREIGN TRADE

January 2004

This Foreign Trade Report is a summary of the main foreign trade reforms in Mexico published in the Federal Official Gazette (DOF) in December 2003 that will come into effect during January 2004 and also contains general foreign trade news that will have an impact on Mexican foreign trade. For further information on the topics addressed in this paper or for any questions arising from it, please write to adrian@vazqueztercero.com or veronica@vazqueztercero.com.

1. Free importation of new automobiles

- ✓ Under the North American Free Trade Agreement, the World Trade Organization's Trade-Related Investment Measures and other trade agreements entered by Mexico, as of January 1, 2004 our country eliminated restrictions or bans on the importation of new motor vehicles, thus repealing the Decree for the Promotion and Modernization of the Motor Industry. Therefore, as of that date, free importation of new automobiles by individuals or entities is allowed, whether or not such individual or entity is a manufacturer, subject to payment of domestic taxes applicable to Mexican cars, such as Value Added Tax (IVA), Tax on the Acquisition of New Automobiles (ISAN) and Ownership Tax (Tenencia).
- ✓ Relevant authorities have issued several provisions aimed at regulating such imports, as follows:

New vehicles susceptible of importation

- ✓ Any vehicle intended for importation shall meet the following requirements:
 - a. The weight of the vehicle is not to exceed 8,864 kilograms and be classified under certain tariff schedules of chapter 87 of the Tariff of General Import and Export Duties;

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- b. New vehicles shall be deemed to be those that at the time of importation do not have over 1,000 kilometers of mileage in case of vehicles with a gross weight of less than 5,000 kilograms, and not more than 5,000 kilometers in all other cases;
- c. The digit of the Vehicle Identification Number for the year model must match the year of importation or the next year model; and
- d. The invoice evidencing ownership of the vehicle shall be issued by the manufacturer or authorized dealer.

Importers' Registry

- ✓ New vehicle importers must be registered as such in the Importers Registry of the Mexican Revenue Service (Servicio de Administración Tributaria); this obligation is not applicable to individuals who do not import more than one vehicle in a 12-month period.

New Automobile Importers' Registry

- ✓ Individuals and entities who intend to import new vehicles to market or include them in their assets, must register as such with the Ministry of the Economy (Secretaría de Economía). This is not applicable to the end automotive industry or car manufacturers or to individuals who do not import more than one vehicle in a 12-month period.

Definitive Importation Entry Summary (Pedimento)

- ✓ Importation shall be processed through a customs broker and must describe the vehicle's features.

Payment of General Import Duties

- ✓ Import duties shall be 0% in case of new cars originating from the United States and Canada that meet regional content requirements of at least 62.5%, in addition to having a valid certificate of origin. In the case of vehicles originating from the European Union, the import duty will be 10% if imported under the tariff quota. Imports of vehicles originating from other countries (Japan, Korea, etc.), with which no trade agreements are in place, a general duty of 50% will be applicable.

Official Mexican Standards

- ✓ Importers in general shall prove compliance with the applicable standards, such as those corresponding to marketing of vehicles, to the Vehicle Identification Number and Noise and Gas Emissions (which are deemed to have been complied with the invoice if the vehicle is originating from the United States and Canada).

2. NAFTA Transition Period

- ✓ Except for some trade-sensitive commodities, such as grains, sugar, and powdered milk, the NAFTA 10-year transition period has expired. Therefore, almost all goods originating in the United States and Canada imported into Mexico are now duty free as the dates provided for in schedule "c" have been met.

3. Sanitary Regulations for Wooden Pallets

- ✓ Due to the meager regulations on new or used pallets, crates and other wood containers used in international transportation of goods, and the high risk of introducing pests that would jeopardize the safety of the countries' natural resources, the North American region implemented a series of provisions to regulate the matters related to wood packaging materials for both import and export transactions between Canada, the United States and Mexico.
- ✓ International Standards for Phitosanitary Measures, such as the Guidelines for Regulating Wood Packaging Materials in International Trade issued by the Food and Agriculture Organization of the United Nations (FAO) are acknowledged as the basis for phitosanitary measures applied by the members of the World Trade Organization (WTO) under the commitments undertaken in the Agreement on the Application of Sanitary and Phitosanitary Measures.
- ✓ Therefore, on November 26, 2003 **NOM-EM-144-SEMARNAT-2003** (Official Mexican Standard) was published in the Federal Official Gazette stating the technical specifications of the phitosanitary measure (treatment) and the use of Brands proving its application, and the *Resolution providing the procedure and requirements to authorize the use of Brands proving the application of phitosanitary measures in wood packaging material used in international trade* was published on December 18, 2003, stating that anyone who intends to obtain authorization from the SEMARNAT (Ministry of the Environment) for the use of the Brand must comply with **NOM-EM-144-SEMARNAT-2003**.
- ✓ The member countries of the North American Plant Protection Organization (NAPPO) agreed to implement the Guidelines as of January 2, 2004.

Accordingly, anyone who intends to export goods to the United States and Canada using wood packaging materials, must use duly Branded packaging.

- ✓ Authorization for the use of the Brand will be issued by **SEMARNAT** through the **Forestry and Soil Management Agency (Dirección General de Gestión Forestal y de Suelos (DGGFS))** or its Federal Delegations, and will allow an individual or entity to use the Brand for themselves or for third parties provided that the wood packaging material has been treated in their own facilities according to approved phytosanitary measures.

4. Federal Fiscal Code

The Mexican Congress approved amendments to the Federal Fiscal Code. It is worth noting the amendments tending to eradicate smuggling and tax fraud, both of which affect the Mexican economy.

Presumption of smuggling and penalties. Penalties for smuggling were raised and assumptions of the commission of smuggling increased from nine to eighteen, including:

- a. That foreign goods are introduced into Mexican territory through an unauthorized place of entry;
 - b. That temporary imports are made of goods that are not covered under in-bond industry or export programs authorized by the Ministry of the Economy;
 - c. That goods continue to be temporarily imported under an in-bond or export program when it is no longer effective;
 - d. That companies with export programs authorized by the Ministry of the Economy temporarily transfer the imported goods to companies that do not have such programs, and
 - e. That no accreditation is provided of the return of temporary imports within the legal term.
- ✓ **Tax fraud.** In order to prevent goods from being introduced into the country at a lower-than-their-actual price with the purpose of reducing tax payments and/or advantages, or to obtain undue benefits from imports, two further assumptions on tax fraud were added, as follows.
 - a. When goods are declared to be worth 70% or less than their fair value, except guarantee is granted, and
 - b. When the tariff classification of goods is inaccurately presented and a benefit is obtained, or when goods are imported without being registered in the relevant registers.

5. Changes to PROSEC and import tariffs

- ✓ As it has become customary, the Decree establishing the Sector Promotion Programs was amended (Federal Official Gazette of December 31, 2003), eliminating import duties for some materials and adding new tariff classifications under preferential duties.
- ✓ The import tariff was also amended (Federal Official Gazette of December 31, 2003), creating and modifying several tariffs, including the increase to the duties on the importation of tires under specific tariffs.
- ✓ Finally, the tariff rates applicable for 2004 were published ((Federal Official Gazette of December 31, 2003) under the trade agreements to which Mexico is a party.

6. World Trade Organization

- ✓ In its meeting of December 15, the Chairman of the World Trade Organization assessed in Geneva the progress of the works carried out after the Cancun Ministerial Meeting, aimed at redirecting the Round of Doha after the lack of agreements in the Cancun Ministerial Meeting in September 2003.
- ✓ The Chairman also referred to specific areas of disagreement in the four issues addressed since Cancun (agriculture, access to non-agricultural markets, cotton and Singapore topics). Members' interventions reflected that these differences still prevail.
- ✓ All negotiation groups and the Trade Negotiations Committee will be reactivated starting 2004, to continue the works and seek solutions to outstanding problems.

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