

FOREIGN TRADE

February 2004

This **Foreign Trade Report** is a summary of the main foreign trade reforms in Mexico published in the Federal Official Gazette in February 2004, which 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 Adrián Vázquez Benítez: adrian@vazqueztercero.com or Verónica Vázquez Bravo: veronica@vazqueztercero.com.

1. Seventh Resolution of Amendments to the General Foreign Trade Rules 2003

The Seventh Resolution of Amendments to the General Foreign Trade Rules for 2003 and its exhibit 1 were published in the Federal Official Gazette on February 3, with the following major amendments:

✓ **Importation of new vehicles**

It became mandatory to attach the document evidencing compliance with the Official Mexican Standards (*Normas Oficiales Mexicanas*) to the customs import declaration or *pedimento*.

✓ **Registration of Certified Companies**

- *Controlling Maquiladoras*

The requirements that must be met in order to become certified pursuant to the amendment to the “Decree for the promotion and operation of the export *maquiladora* industry”, published in the Federal Official Gazette on October 14, 2003 are as follows:

- a) Evidencing that the company has been appointed as a controlling entity to bring together the maquila operations of two or more controlled companies.
- b) Having made imports in the immediately preceding six-month period for a customs value of not less than \$530 million pesos and minimum yearly exports of \$500 million dollars, amounts which have to be jointly evidenced (controlling and controlled companies).

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The determination will be issued by the General Customs Office (Administración General de Aduanas) within 40 days following the date of submission of the request.

- *Controlled Companies*

Customs benefits applicable to remainders of goods under a temporary importation program have been established for the cases where the maquila operation program has been cancelled and goods become part of a controlling maquiladora. Benefits may be used within 60 calendar days following the date of cancellation of the maquila program (extendable for another 60 days), which are:

- a) Return the remainder of the goods to the foreign country;
- b) Change its import regime, or
- c) Transfer them to the controlling maquiladora through a virtual customs declaration, without paying the DTA (Customs Dispatch Fee), within 6 months following the date of cancellation of the program in the case of raw materials, parts and components, and 12 months after cancellation in the case of machinery and equipment.

- *Transfer of goods*

Return customs declarations may be processed in the name of the controlling maquiladora, and may cover goods that will be delivered to one or more controlled companies, provided that their corresponding commercial invoices bear the label "Controlling Maquiladora Operation" (*Operación de maquiladora controladora de empresas*).

Transfer of goods among controlling and controlled maquiladora companies, or among the latter, may be carried out provided that the controlling companies electronically send to SAAI (Customs Electronic System) the form 41-A, "Notice of transfer of controlling maquiladora goods" and a copy of such notice must be sent together with the shipment of the goods.

- *Maquila services provided by the controlled company*

Clarification of the term "exports" is made, including any transformation, making or repair services applied to goods temporarily imported by the controlling maquiladora.

2. Notice on the elimination of antidumping duties

On February 4, the Ministry of the Economy published in the Federal Official Gazette a notice of elimination of antidumping duties. Therefore, any domestic producers or any other person that may have a legal interest in such elimination must submit, at least 25 days in advance to the expiration of the term of the antidumping duty, a written notice informing their desire to initiate an exam to determine the consequences of eliminating the antidumping duty (sunset review). Products whose antidumping duties expire this year include bicycles, textiles, clothing and toys from the People's Republic of China.

It is also worth mentioning that the Final determination of the sunset review on the importation of footwear from the People's Republic of China was published on February 2, 2004, whereby the term of the antidumping duties was extended until December 31, 2007. However, the Ministry of the Economy excluded Nike de México, S.A. de C.V. from the antidumping order, in compliance to a court order under a *Juicio de Amparo*¹.

3. Amendment to the agreement providing the explanatory notes referred to in Article 39 of Exhibit III to Resolution 2/2000 of the Mexico-European Community Free Trade Agreement

The amendment to the explanatory note "Technical Reasons" for which the EUR.1 "circulation certificate" may be rejected, was published on February 12. In case a certificate is rejected for any of the reasons therein stated, a certificate issued *a posteriori* may be submitted at a later date to replace the certificate that was rejected for amendment.

It is worth mentioning that minor errors, discrepancies or other omissions that are not significant are not to be deemed technical reasons that provide grounds for rejection.

4. Notice requesting public comments in respect to a possible harmonization of tariffs between Mexico, the United States and Canada, and a possible liberalization of NAFTA Rules of Origin

On February 12, 2004 the Ministry of the Economy published in the Federal Official Gazette a Notice requesting public comments in respect to a possible harmonization of most-favored nation tariffs between Mexico, the United States and Canada, and a possible flexibilization of NAFTA's Rules of Origin, granting interested parties a 30-calendar day comment period.

¹ *Amparo* is a judicial procedure that provides for a constitutional challenge of an act of authority.

5. Mexico before the WTO Round of Doha

The WTO negotiation groups have been defined, and Mexico will chair the Group of Rules (procedures), although Mexico had attempted to do so in Agriculture.

Mexico is assessing the possibility of incorporating into the Cairns Group, which is an agricultural exporters' group integrated by 17 countries seeking elimination of subsidies and opening of agricultural markets, mainly the United States and the European Union.

Finally, holding a new WTO Ministerial Meeting is complicated, as there is no consensus yet. However, progress could be made toward defining a date due to the interest of European and American interests.!