

FOREIGN TRADE

March 2004

This *Foreign Trade Report* is an executive summary of the main foreign trade reforms in Mexico published in the Federal Official Gazette in March 2004, which also contains general foreign trade news that will impact 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. General Foreign Trade Rules for 2004

The General Foreign Trade Rules for 2004 were published in the Federal Official Gazette on March 29, effective as of April 1 until March 31, 2005. This provision includes some of the amendments to the Eight Amending Resolution to the General Foreign Trade Rules for 2003 and their exhibits 1, 10, 18, 21, 22 and 27, published on March 9, 2004 in the Federal Official Gazette. The most relevant changes to the 2004 Rules are as follows:

CUSTOMS ACCOUNTS AND GUARANTEES

✓ **Proof of deposit or guarantee**

New information requirements were added to the proof of deposits to customs account, including:

- Number of bill to which the guarantee will be applied
- Name of the Custom House through which the transaction will take place
- Kind of customs transaction stating the applicable statute
- Kind of guarantee pursuant to Rule 1.4.1
- Any other established by the Operation Instructions issued by the SAT (Mexican Revenue Service)

Banks authorized to operate customs accounts are still issuing their proof of deposit without the aforementioned information. Thus, the Accounting and Content Administration of Customs reported that the banks have begun making the necessary changes in their systems in order to meet these requirements, so any foreign trade transactions made through customs accounts and/or guarantee customs accounts shall temporarily continue to take proofs of deposit with the old information.

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SPONTANEOUS PAYMENT OF PAST-DUE GOODS

✓ **Virtual return of past-due goods**

The term for returning any past-due goods imported temporarily before June 1, 2002 has been extended until March 31, 2005 (the terms was March 31, 2004).

IMPORTATION AND EXPORTATION OF GOODS AND POWERS OF THE CUSTOMS AUTHORITY

✓ **General Importers' Record**

Obligation to attach a copy of the applicant's or the applicant's legal representative's official identification to the General Importers' Record application form. It is also necessary to attach the license of use or marketing to the Electronic Devices Importers' Record application form by those who intend to import compact disc burners and blank compact discs.

✓ **Specific Importers' Record**

It is not necessary to register in the Specific Importers' Record in the case of transactions that are exempted from registering with the General Importers' Record.

Likewise, pursuant to the amendments to the Special Tax on Production and Services Law for 2004, taxpayers importing alcohol and spirituous beverages registered with the Wine and Liquor Importers' Record, shall be deemed to be automatically registered in the new specific sector called "Alcohol, Denaturated Alcohol and Non-Crystallizing Syrups" as of April 8.

CUSTOMS CONTROL IN THE IMPORT AND EXPORT OF GOODS

✓ **Revalidation of bills of lading**

Sea freight companies are exempted from the obligation to electronically provide information regarding the revalidation of bills of lading.

BONDING OF GOODS WITH CUSTOMS

✓ **Goods forfeited to the federal tax authorities**

It will be the General Customs Administration (*Administración General de Aduanas*) who will be ultimately responsible for notifying the resolution determining the allocation of any goods forfeited to the tax authorities.

DISPATCH OF GOODS

✓ **Endorsement of Bill of Lading or Airway Bill**

There shall be no obligation to endorse the bill of lading or the airway bill or to assign the rights to prove ownership of the goods when the consignee is other than the importer.

✓ **Individual Identification Data (Exhibit 18)**

There is no obligation to include in the bill, invoice or list attached to the bill, any information regarding kind of finishing, name of fastening device, weight, specific measures and product identification code under international standards for drills, bolts, nuts, washers that have been introduced or removed from the bonded warehouse for the end or manufacturing motor industry as of February 10.

✓ **Registration of customs patents**

Individuals may only register with the General Importers' Record up to ten customs patents, and entities may register up to thirty, except for certified companies and taxpayers who use the check in point of origin procedure.

As of April 15, customs agents may accept or reject electronically any of the requests made by the importers, otherwise they will not be able to carry out transactions in the Customs Automated System (SAAI).

✓ **Express Lanes**

It is allowed to use express lanes for the dispatch of goods to be exported, provided that the exporters are registered in the "FAST" program of the U.S. Customs and Border Protection, and that they use the services of carriers and drivers registered in such program.

DISPATCH OF GOODS BY CERTIFIED COMPANIES

✓ **Transfer of goods to companies residing in Mexico**

There is a possibility to apply the preferred tariff rate set forth in the various trade agreements when companies residing in Mexico receive goods made with raw materials, parts or components that are temporarily imported by *maquiladora* or PITEX companies, provided that such goods qualify as originating goods and that there is a valid certificate of origin.

✓ **Importation or consolidated return of goods contained in one same vehicle**

Certified companies are allowed to consolidate in one vehicle one or more bills from one single customs agent, when related with temporary imports or returns of goods from PITEX or *maquiladora* companies, provided that they meet the requirements provided there of.

✓ **Consolidated supplementary bills**

It is possible to submit one single supplementary bill to cover the bills of return processed in one single calendar month by the PITEX and *maquiladora*

companies that are subject to the treatment set forth in article 303 of NAFTA or article 14 of Exhibit III of the EUFTA within sixty calendar days following the date on which the first bill of return is submitted.

✓ **Express Lanes**

Certified companies are allowed to perform custom dispatch activities using the lanes set up to that end by the General Customs Administration, provided that it includes the relevant identifier and that the driver proves in the automated selection booth that it is registered in the “FAST” program for drivers.

POWERS OF THE AUTHORITIES, BREACHES AND PENALTIES

✓ **Extemporaneous compliance with document submission obligations**

a) *Omission of documentation of origin and non-tariff regulations and restrictions*

By reason of the customs acknowledgement or second acknowledgement, if the customs authority detects the omission of documentation of origin and non-tariff regulations and restrictions, it may only impose a penalty by reason of the extemporaneous submission of the documentation and may not be able to seize the goods and determine a tax credit. The foregoing provided the documentation is submitted before the customs acknowledgement or reception of the second acknowledgement report.

b) *Inappropriate tariff classification*

The customs authority shall not charge any fines or seize imported textile goods when, by reason of the laboratory analysis performed as verifying authority, it determines that there is a discrepancy between the description and the tariff classification of the declared goods of less than 5% in the product composition or surface finishing processes. The foregoing shall apply provided that the importer submits an amendment to the bill within 15 business days from the date following notice thereof, and it shall also provide the authority with the document proving the origin of the goods in order to apply any preferred tariffs and/or countervailing duties, which document shall contain the description and tariff classification determined by the customs authorities.

The customs authority shall neither seize the goods that are temporarily imported by PITEX or *maquiladora* companies when, by reason of the customs acknowledgement, second acknowledgement or verification duties, it is determined that the customs agent or broker used an inappropriate tariff classification, provided that the companies submit an amendment to the bill within 15 days following the request made by the authority and that they expand the program to include the appropriate tariff classification.

✓ **Domestic transit**

It is not allowed to spontaneously submit domestic transit requests for importation or exportations when the goods have arrived on time and they were not submitted for inclusion in the SAAI system before March 31.

✓ **Internet investigation files**

In order to regulate the new contraband or smuggling assumptions set forth in Article 103 of the Federal Fiscal Code, it was provided that whenever the customs authority detects that there is non-compliance with the provisions regulating importation or exportation of goods, it shall open an investigative file as provided by the Mexican Revenue Service (SAT), which shall be available in its website, prior submission of the complaint, claim of damage or any other applicable statement, as provided in the Federal Fiscal Code, except in the case of forbidden goods or when there is evidence of use of false documentation or information.

✓ **Companies of the end or manufacturing motor industry for transportation vehicles**

As of March 31, companies of the end or manufacturing motor industry for transportation vehicles who have been authorized by the bonded warehouse for the assembly and manufacture of motor vehicles, may transfer to certified PITEX or *maquiladora* companies, any containers used in the transportation of goods destined to bonded warehouses, provided they do so through virtual bills under code V3.

✓ **Return of transferred goods to foreign countries**

PITEX and *maquiladora* companies that acquire goods that are the object of transfer, shall return or import them definitively within the permanence periods contemplated by Article 108 of the Customs Law.

TRANSITORY ARTICLES

- ✓ An additional term is provided, until July 1, 2004, for the benefit of sending to a bonded warehouse the goods included in Exhibit 10 without registering in the General Importers' Record or in the Specific Importers' Record.
- ✓ An additional term is provided, until April 30, 2004, for PITEX and *maquiladora* companies to ratify before their local Taxpayer's Assistance Bureau, the information on their principal registered offices and any other registered offices they have included in their program.

EXHIBITS TO RULES

- ✓ New exhibits 1, 2, 3, 10, 18, 21 and 27 were published in the Federal Official Gazette on March 31, 2004, which shall become effective as of

April 1, 2004. As long as the other exhibits are not published, those of the General Foreign Trade Rules for 2003 shall continue to apply.

2. Resolution adding and amending the resolution that provides the exhibit establishing the mechanism to secure payment of taxes on goods subject to estimated prices by the Mexican Ministry of Finance (SHCP), published on March 29, 2003.

On March 11, the Mexican Ministry of the Economy published in the Federal Official Gazette a Resolution on estimated prices, and added a schedule with different tariff classifications for ethylic alcohol. It also amended the text of the description excepting short pants from the application of an estimated price.

3. Decree amending the establishment of several Sector Promotion Programs

On March 23, the PROSEC amendment decree was published in the Federal Official Gazette, and the following amendments resulted from the creation of tariff classifications published on December 31, 2003 regarding bolts, nuts and tires for cars, vans and buses:

- Tariff classifications 7318.15 and 7318.16 were added under different sectors under preferential tariffs or duty free.
- In the case of sector XIX "Motor Vehicle and Spare Parts Industry", tires of HTS 4011.10 and 4011.20 were included considering their new eight digit classification.
- Tariff classification 7318.16.99 "Others" was removed from preferential tariff from different sectors.

It is also worth mentioning that tariff classification 3903.11.01 "Expandable" has been removed from preferential tariff in section II "Electronic Industry" paragraph a), which had been added through the amendment decree for PROSEC published in the Federal Official Gazette on December 31, 2003, as a duty free good.

4. Negotiations of the Mexico-Japan Free Trade Agreement

On March 9, the governments of Mexico and Japan concluded their negotiations and have agreed on the core of the Economic Partnership Agreement (Acuerdo de Asociación Económica, AAE).

Partial market access was obtained for pork, orange juice and almost all produce grown in Mexico, but nothing was obtained for pineapples, pineapple juice and apple juice, although these cases will be reviewed in three years.

The apparel and footwear industries will benefit from it, as an annual quota of 200,000 pairs of shoes was obtained for the latter, with annual increments of 20% in the next ten years, together with an annual quota of 200 million dollars for the former.

Now the governments of Mexico and Japan are working to translate negotiations into the legal language and put the document in three languages: English, Spanish and Japanese for its confirmation by the Mexican Senate and the Japanese National Diet. Once it is authorized by both legislative bodies, it will be signed by the Heads of State of both nations and will become fully effective .!