

FOREIGN TRADE*

July 2004

This **Foreign Trade Report** is an executive summary of the main foreign trade reforms in Mexico published in the Federal Official Gazette in July 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. Rules applicable to supporting competitiveness of the end automotive industry and promoting the development of the domestic automobile market

On June 30, the Ministry of the Economy (SE) published in the Federal Official Gazette an Agreement determining the Rules applicable to the Decree supporting competitiveness of the end industry and promoting the development of the domestic automobile market, effective on the date of its publication, which repeals the Agreement determining the Rules applicable to the Decree for the Promotion and Modernization of the Automotive Industry published in the Federal Official Gazette on November 30, 1990.

This is with the purpose of setting the rules applicable to the Decree supporting competitiveness of the end industry and promoting the development of the domestic automobile market published in the Federal Official Gazette on December 31, 2003.

2. Amendments to the Determination on Estimated Valuation Prices

On July 6, the Ministry of Finance (SHCP) published in the Federal Official Gazette the Amendment to the Determination establishing the mechanism to secure payment of duties on goods subject to estimated prices by the SHCP, including the following:

- ✓ Importers that have granted a security or a **global security**, shall have a certified invoice or an inspection report that meets the requirements of article eight of the Determination and make them available to the authorities when so required.
- ✓ The option to release the security in less than 6 months was removed.
- ✓ Importers may request cancellation of the security pursuant to article 86-A of the Customs Law and article two of the Determination, by submitting to the issuing credit institution or brokerage house issuing the certificate, a copy of the customs declaration, a certificate of the deposit or security issued to the importer, and the request for the release of the security after **3 months** have elapsed from the date of import and without the customs authority having notified the credit institution or brokerage house about the exercise of its inspection powers.

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- ✓ When the **term of 6 months** referred to in article 86-A, section I of the Customs Law lapses, and the taxpayer does not withdraw from the credit institution or the brokerage house the deposits made in the customs security account, such amounts shall be transferred together with their yields, to the Federal Treasury, and the taxpayer will keep for two years its right to claim reimbursement thereof to the competent authority, otherwise such right shall expire pursuant to article 36 of the Federal Treasury Service Law.

3. Amendments to Annex 5 of the Standards for Determining the country of origin in connection with antidumping duties

On July 14, the SE published in the Federal Official Gazette the Agreement amending Annex V that establishes the standards for determining the country of origin of imported goods and the provisions for their certification in connection with antidumping duties, in order to add the Free Trade Agreement between the United Mexican States and the Republic of Uruguay to the list of Annex 5 regarding "Treaties and Agreements contemplating verification authority with respect to the Certificate of Origin".

4. Liberalization of rules of origin by Mexico, Canada and the USA

On July 20, it was disclosed that Mexico, Canada and the USA will liberalize the rules of origin for a "wide array" of foods and industrial products, chemicals, pharmaceuticals, plastics, rubbers, motor vehicles, motor vehicle parts, footwear and copper, among others, which means one of the most important measures under NAFTA after eliminating the duties for almost all the goods exchanged among the three countries. It is intended that the liberalization of the rules of origin becomes effective as of January 2005. In this integration and trade liberalization process, all three countries committed to analyze the rules of origin agreed in the Free Trade Agreements negotiated by each country after NAFTA, in order to determine whether it would be convenient to apply them in the context of the agreement between the three trade partners.

5. Amendments to the Applicable Rate for 2004 of the General Import Duties

On July 20, the SE published in the Federal Official Gazette the Amendment to the Decree establishing the Applicable Rate for 2004 of the General Import Duties for goods originating from the European Union, the Member States of the European Free Trade Association, the State of Israel, El Salvador, Guatemala, Honduras, Nicaragua, Colombia, Venezuela and the Republic of Uruguay, including:

- ✓ The duties applicable to the column "Colombia" is amended to preferred rate EX (exempted) for certain **new tires**, originating from Colombia as identified in 13 tariff classifications of the General Law on Import and Export Duties.
- ✓ The duties applicable to the column "El Salvador" is amended for **iron and non-alloyed steel bars and profiles, barbed wires, metal meshes, nets, fences, locks and iron or steel strips, tips, nails, and thumbtacks** identified in 12 tariff classifications of the General Law on Import and Export Duties.
- ✓ For **footwear** originating from Guatemala, an addition was made to article 37 to state that the goods provided for in the tariff classifications thereof in the column "Guatemala", which are identified with the "CAG" code shall have an EX preferred rate (exempted).

6. Amendment of duties of the Import and Export Tariff Law

On July 20, the SE published in the Federal Official Gazette a Decree amending several duties of the Tariff of the General Law on Import and Export Duties thus complying with the commitments of Mexico under the Agreement of Marrakech as regards access to markets, including reduced duties of certain agricultural, livestock and industrial products, such as pedigreed swine, poultry meat and giblets, powdered milk, beans, corn, barley, malt, coffee, food preparations, tobacco, paper and steel products.

7. Second Amendment to Foreign Trade Rules

On June 22, the SHCP published in the Federal Official Gazette the Second Amendment to the General Foreign Trade Rules for 2004 and Annexes 21 and 28 thereto, being it worth mentioning the incorporation of rules regulating the operations of strategic bonded warehouses and the changes made for the publication of the Mexico-Uruguay FTA.

- ✓ **Customs Processing Duties (CPD)**
In connection with the lawsuits and *amparos* against the tax authorities due to the unconstitutional nature of the CPD, and in order to prevent a possible reimbursement of 100% of paid CPD, it is clarified that the consideration for and VAT applicable to the services rendered are not part of the duty, even if the customs declaration show them as such.
- ✓ **Removal from the Importers' Registry and from the Specific Sector Importers' Registry**
Immediate removal from such registries when the SE cancels the export promotion program for which the registry was created.
- ✓ **Strategic Bonded Warehouses**
 - a) Those who import goods under this regime are mandated to register with the Importers' Registry only when the goods are destined for final importation;
 - b) Those who promote this customs regime are exempted from declaring the information required in Annex 18;
 - c) It will not be mandatory to enable the automated selection mechanism for a second time;
 - d) Persons who are authorized to operate under this regime may make a temporary determination of the value in the customs house;
 - e) Outbound or inbound goods may be dispatched in any customs station;
 - f) The relevant tax can be deferred pursuant to the provisions of NAFTA, EUFTA and EFTAFTA for the transfer of goods made by persons authorized to allocate goods under this regime to another person with the same authorization, or for transfer to a PITEC or maquiladora;
 - g) Return of goods to foreign countries and the disposition of foreign goods made by persons authorized to allocate goods under this regime to maquiladora o PITEC companies, or to end automotive companies or to transportation vehicle manufacturers or motor vehicle parts manufacturers for introduction to a bonded warehouse, will be taxed with 0% VAT;
 - h) Withdrawal of goods to be allocated as temporary imports by maquiladora or PITEC companies must be made through temporary customs declarations by the companies acquiring the goods, and
 - i) An automated inventory control must be used with the FIFO method, and may opt to follow the guidelines of Annex 24.

✓ **Certified Companies**

- a) The requirement for the value of imports made in the preceding semi-annual period to obtain registration as certified companies is decreased to 400 million (before, 530 million) for entities, maquiladora and PITEX companies belonging to the same group and controlling maquiladoras.
- b) Removal from the Importers' Registry will not be applicable to this kind of companies that have not filed their federal tax returns or if they have not made any imports in the last 12 months, or if a tax credit was determined for more than \$100,000.00 Mexican pesos.

✓ **Bonded Warehouse (registration with the Importers' Registry and the Specific Sector Importers' Registry)**

The benefit to allocate the goods included under tariff classifications listed in Annex 10 is extended until September 1 without need to register with the aforementioned registries.

8. WTO Doha Program

On July 30, the WTO published the second draft decision of the General Council on the working plan of the Doha Program distributed by the Chairman of the WTO General Council, Shotaro Oshima, and the WTO Director-General, Supachai Panitchpakdi. Included are topics in connection with cotton following the workshop held in Cotonou in March 2004; the framework to establish agriculture-related modalities, and market access for non-agricultural products, as well as recommendations of the Service Council. ■