

FOREIGN TRADE*

January 2006

This **Foreign Trade Report** is an executive summary of the main foreign trade reforms in Mexico published in the Federal Official Gazette during January 2006, which also contains general foreign trade and taxation 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 contact any of the following: **Adrián Vázquez Benitez**, adrian@vazqueztercero.com, **Horacio A. López-Portillo Jaso**, horacio@vazqueztercero.com, or **Verónica Vázquez Bravo**, veronica@vazqueztercero.com

Customs and Foreign Trade Matters

1. Amendments to the Sector-Specific Promotion Program

On January 20th, the Ministry of Economy (SE) published in the Federal Official Gazette the Decree that amends a similar decree whereby the Sector-Specific Promotion Programs are established. The following matters are of relevance:

- ✓ The tariffs applicable to certain tariff items relevant to the following industries are amended: Mining and Metals, Chemicals, and Leather and Fur.
- ✓ Article 4 (list of final goods for production) is amended to include tariff headings and items relevant to the following industries: Electronics, Miscellaneous and Textile and Garment Industries.
- ✓ Likewise, Article 5 (list of input for importation subject to tariff preferences for production of the final goods referred to in Article 4) is amended to include tariff headings and items relevant to the following industries: Electric, Electronics, Shoes, Mining and Metals, Capital Goods, Miscellaneous Industries, Chemicals, Pharmaceuticals, Medicines and Medical Equipment, Transportation, Wood, and Leather and Furs.

2. Amendment to the Quota on the Importation of Chapter 95 Goods regarding toys, games and recreational and sports gear.

In our August 2005 Report we informed on the quota established for the importation of toys, as published in the Federal Official Gazette of August 18th, 2005.

On January 31st, the SE published in the Federal Official Gazette the Resolution that amends a similar instrument that informs of the quota on the importation of toys, games and recreational and sports gear, their parts and accessories, as provided by chapter 95, and amends its articles six and nine, as well as the Requirements Page for the assignment of importation quota. This amendment came into effect on February 1st, 2006.

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Legislative Amendments

3. Customs Law

On January 23rd, the Ministry of Finance (SHCP) published in the Federal Official Gazette the Decree that amends the last paragraph of article 62 of the Customs Law, as follows:

...

“In the cases referred to in this section, the Ministry may authorize the temporary internment of the relevant vehicle to the rest of the country for a *maximum term of 180 calendar days, with multiple entries and departures, within a period of twelve months as of the date of the first temporary internment*, provided the requirements set forth in the regulations are complied with. Vehicles that are temporarily interned cannot be used to provide cargo, passenger or tourism transportation services, and may be driven in Mexico by their owner, his/her spouse, his/her children, parents or siblings, or by any other person, provided in this latter case the importer is located *within* the vehicle. When the owner of the vehicle is an entity, it shall be driven by a person that has a labor relationship with the owner.”
(*Emphasis added*)

4. Foreign Trade Law

On January 24th, the SE published in the Federal Official Gazette the Decree whereby several provisions of the Foreign Trade Law are amended. The following are of relevance:

- ✓ The SE shall be the government agency through which the Federal Executive shall coordinate all other agencies the authority of which refers to non-tariff regulation. This shall be done through electronic media.
- ✓ The SE is granted several authorities, including: (i) imposition of safeguards (previously only granted to the Federal Executive); (ii) establishment of export development programs through participation of the public and private production sectors, and (iii) issue rules and criteria for compliance of all legal provision that falls within its competence.
- ✓ Evidence of compliance with a non-tariff restriction shall occur through documents that have security or electronic measures that are attached to the customs application.
- ✓ The SE may accept electronic signature certificates that are issued by the certification services professionals that are qualified according to the Commercial Code.

5. Industrial Property Law

On January 25th, amendments to several provisions of the Industrial Property Law appeared in the Federal Official Gazette. The amendments are mainly devoted to franchising, including the obligation to grant a license to use a franchise in writing, and the possibility of paying actual and consequential damages to the franchisee. As regards administrative infractions, a new infraction is the combination of signs and elements that lead the public to confusion, error or deceit, as they may believe or infer the existence of a relationship between the holder of the protected rights (franchisor) and an unauthorized user.

6. Article 12 of the Commercial Code

On January 26th, the SE published in the Federal Official Gazette the Decree that amends article 12 of the Commercial Code by adding a second paragraph to its section III, as follows:

Article 12.- The following may not conduct acts of commerce:

I.

II.

III. Those [persons] that due to a final court order have been sentenced for crimes against property, including false statements, embezzlement, bribery and conspiracy to defraud.

The limitation referred to in the preceding section shall be effective as of the date on which the relevant court order is final, and shall persist until the sentence is complied with.▪

APPENDIX**Customs obligations during 2006**

- ✓ Persons who are registered in the Sector-Specific Registry for Beer, Wines and Spirits, Cigarettes, Alcohol, Denatured Alcohol and Non-crystallized Honeys, as well as Soft Drinks, Sports Beverages and Syrups, must renew registration in such registries during the month of January of each year (Rule 2.2.1 Title B Number 5 section b) of the Foreign Trade Rules in force, or "RCGMCE").
- ✓ As of February 1st wood crating shall be imported with the "Brand" provided by the Agreement that amends Official Mexican Standard NOM-144-SEMARNAT-2004, which provides the health and sanitary measures that are internationally acknowledged for wood crating that is utilized for the international trade in goods and merchandise, as published in the Federal Official Gazette on September 15, 2005. Failure to comply empowers the authorities to adopt measures for the detainment or rejection of shipments.
- ✓ Entities that have PITEX, MAQUILA, PROSEC, ECEX or ALTEX registration must submit the "Annual Report on Foreign Trade Operations" no later than May 31st (Rule 3.3.4 RCGMCE).
- ✓ Companies that are a part of the Auto parts Industry must conduct and submit no later than during May of each year the Annual Adjustment to Disposition of parts and components (Rules 3.3.19 and 3.3.21 RCGMCE).
- ✓ Companies that are a part of the Terminal Automotive Industry or of the Auto transportation Vehicle Manufacturing Industry must submit the Registry of Evidence of Transfers to the Auto parts Industry every quarter. (Rule 3.3.24 Number 3 RCGMCE).
- ✓ Certified companies must renew their registration annually within the 30 days prior to its expiration. (Article 100-A of the Customs Law)
- ✓ Persons registered in any of the Sector-Specific Registries must submit during the month of May a copy of their tax returns for Income Tax (ISR), Value Added Tax (IVA) Asset Tax (IMPAC) and Special Tax on Production and Services (IEPS), along with the cover letter to the audit statement during the month of October (Rule 2.2.9 RCGMCE).
- ✓ Persons who are authorized as exempted from compliance with customs guarantee accounts must request authorization each year upon expiration of their term. (Rule 1.4.10 RCGMCE).