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## Foreign Trade Report March 2006

This **Foreign Trade Report** is an executive summary of the main foreign trade reforms in Mexico published in the Federal Official Gazette during February 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:

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### Customs and Foreign Trade Matters

#### 1. Amendment to the applicable rate of GIT for 2006.

On March 3<sup>rd</sup>, the Ministry of Economy (SE) published the Decree that amends a similar decree that establishes the rate applicable during 2006 of the General Importation Tax (GIT) for goods that originate from countries with whom Mexico has entered into trade agreements. The foregoing seeks to amend the rate provided in the Appendix of goods that are not from Honduras, in accordance with the provisions of Annex 3-19 of the FTA between Mexico and El Salvador, Guatemala and Honduras, and for classification in headings 55.12, 55.13, 55.14, 55.15, 55.16, 60.01, 60.02, 60.03, 60.04, 60.05, 60.06, provided the importer attaches a certificate of eligibility issued by the SE to the import application.

#### 2. Final determinations of the sunset reviews of antidumping duties on synthetic and artificial fiber threads and cloth, as well as other textile products from China.

On March 3<sup>rd</sup>, the Ministry of Economy (SE) published the Final Determinations on the sunset reviews of the antidumping duties imposed on the importation of synthetic and artificial fiber threads and cloth, and garments and other textile products from China, which products are classified under several tariff headings of the TIGIE.

The SE declared that the five-year exams had been concluded and determined continuation of definitive antidumping duties for an additional five years as of October 18, 2004, except for the following tariff items: 5307.20.01, 5308.10.01, 5308.90.99, 5308.90.02, 5311.00.99, 5911.90.99, 5501.20.01, 5501.20.03, 5501.20.99, 5404.10.01, 5404.10.02, 5404.10.99, 6110.90.99 and 6113.00.99

#### 3. Explanatory Notes to the Tariff Schedule

On March 6<sup>th</sup>, the Ministry of Economy (SE) published the Resolution that makes public the explanatory notes to the tariff schedule for uniform application during customs classification of goods in accordance with the General Tax on Importation and Exportation Law, which shall be deemed an official interpretation of the customs nomenclature upon which the TOGIE is based, and the application of which shall be mandatory for determination of the applicable item and sub-item, as well as the relevant tariff heading.

#### **4. Re-initiation of the antidumping investigation of long grained white rice from the USA, based on the conclusions and recommendations of the WTO.**

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On March 15<sup>th</sup>, the Ministry of Economy (SE) published the Resolution that initiates the antidumping investigation on the importations of long grained white rice from the USA, which goods are classified under tariff heading 1006.30.01 of the TIGIE, based on the conclusions and recommendations of the Panel and the Appellate Body of the Dispute Settlement Board of the World Trade Organization (WTO), which provided that only the aspects of harm that are incompatible with the Antidumping Agreement may be reviewed.

#### **5. WTO Dispute Settlement on “measures” adopted by México on soft drinks sweetened with fructose and on steel pipes from Guatemala.**

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On March 6<sup>th</sup>, the Appellate Body of the Dispute Settlement Board (DSB) of the WTO published its report on the appeal submitted by Mexico regarding the matter “Mexico – Tax Measures on Soft Drinks and Other Beverages”, as submitted by the USA.

The Appellate Body confirmed the conclusions reached by the Panel established by the DSB, and resolved that the tax measures imposed by Mexico on soft drinks and other beverages that utilize sweeteners other than cane sugar are unjustified in accordance with section d) of Article XX of GATT 1994, since such do not constitute measures that seek to “achieve compliance with laws and regulations”. Thus, Mexico is obligated to eliminate the Special Tax on Production and Services (*Impuesto Especial sobre Producción y Servicios*) on soft drinks that are sweetened with high fructose corn syrup (HFCS).

*Our firm acted on behalf of the soft drink industry and the U.S. industry of corn refiners during the trade dispute regarding HFCS between the USA and Mexico, which was also subject to resolution before NAFTA and WTO panels.*

On the other hand, on March 17, 2006, the DSB of the WTO established a Panel to examine the case of the antidumping duties imposed by Mexico on steel pipes from Guatemala, due to several alleged violations to the Antidumping Agreement. It is important to note that during the consultations period, the Governments of Guatemala and Mexico did not reach mutually satisfactory agreements, which led the Government of Guatemala to submit a formal claim.

*Our firm advised the Guatemalan exporter during the antidumping investigation, and currently one of our partners is acting as a consultant of the Government of Guatemala in the trade dispute.*

## **6. Procedure codes applied by the Ministry of Health**

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On March 20<sup>th</sup>, the Ministry of Health published the Notice that informs on the new Codes for Procedures (*Homoclaves de Trámites*) registered before the Federal Registry of Procedures and Services (*Registro Federal de Trámites y Servicios*) that are undertaken by the General Directorate of Legal Affairs, General Directorate of Health Quality and Education, the National Transplant Center, the Federal Commission for the Protection against Health Risks and the National Commission of Medical Arbitration.

## **7. Instruction manuals and forms for the importation and exportation of pesticides, vegetable nutrients and hazardous substances and materials.**

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On March 28<sup>th</sup>, the Ministry of the Environment and Natural Resources published the Agreement that informs on the instruction manuals and forms for authorization of the importation and exportation of pesticides, vegetable nutrients and hazardous substances and materials that may be placed at the disposal of the general public, as made public on that Ministry's website pursuant to a resolution published on November 15, 2005.

## **8. Cement exports to the USA**

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On March 29<sup>th</sup>, the SE published the Resolution that informs on the maximum quotas for exportation to the USA of Portland grey cement and Clinker cement from Mexico during the period from 2006 through 2009, pursuant to the Agreement on the Trade of Cement entered into by the SE and the Department of Commerce of the USA, which seeks to free Mexican exports from the antidumping duties established by such country. Based on the foregoing, the following tariff headings shall be subject to obtainment of a permit prior to exportation issued by the SE: 2523.10.01 (Unpowdered "Clinker" cements), 2523.29.99 (others) y 2523.90.99 (other cements). This Resolution came into force on April 3<sup>rd</sup> and shall conclude its effectiveness on March 31<sup>st</sup>, 2009.

## **9. Criteria for prior permits for heading 98.02 of the TIGIE**

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On March 31<sup>st</sup>, the SE published the Resolution that establishes the criteria for granting permits prior to importation under the tariff items of heading 98.02 of the TIGIE pursuant to Rule Eight of the Supplemental Rules for the Interpretation and Application of the General Tax on Importation and Exportation Law. This Resolution came into force on April 1<sup>st</sup>.

## **Legislative Amendments**

### **10. Amendments to the *Amparo* Law**

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During the session held on March 14<sup>th</sup> past, the Mexican Senate approved the draft amendment to Articles 124 and 135 of the *Amparo* Law.

The amendment seeks to avoid the granting of an injunction on the contested act when such allows entry into the country of goods the introduction of which is prohibited, or when such act is one of those provided by the second paragraph of Article 131 of the Constitution, i.e., when non-tariff regulations and restrictions or Official Mexican Standards are violated, or when national production is adversely affected.

Notwithstanding the foregoing, when an *Amparo* is requested against the collection of taxes and levies, including antidumping duties, the injunction may be granted on a discretionary basis, but such shall be effective prior to the deposit in cash of the total amount in favor of the Federal Treasury, which shall include the principal amount, penalties and surcharges that are accrued, thereby guaranteeing the public tax interest. In those cases when the *Amparo* is denied or when it is reversed, or when the injunction is made ineffective, the relevant authority shall collect on the deposits made.

### **11. General Rules on Foreign Trade for 2006.**

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On March 31<sup>st</sup>, the Ministry of Finance and Public Credit published the General Rules on Foreign Trade for 2006, whereby it informs on the generally applicable provisions regarding foreign trade with a view to facilitating the management, identification and verification of operations concerning imports and exports. These rules shall be in force from April 1, 2006 through March 31, 2007.

We will send our comments to the most relevant amendments shortly. ■