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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: **Adrián Vázquez Benítez**, 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 Regulations to the General Health Law (Ley General de Salud) and to the Regulations on the Sanitary Control of Products and Services.

On April 6th, the Ministry of Health (SS) published a Decree that amends and derogates several provisions of the Regulations to the General Health Law as regards Publicity, as well as the Regulations on the Sanitary Control of Products and Services. The following is highlighted:

Article 86 of the Regulations Concerning Publicity is amended to include the requirement of submission of a notice to the SS for the publicity of beverages that have added caffeine, and the provision regarding the requirement to submit such notice for food and perfume, beauty and cleaning products is derogated.

A section II bis is added to Article 101 of the Regulations on the Sanitary Control of Products and Services in order to include beverages that have added caffeine, which shall be deemed those that have more than 20 milligrams of caffeine per 100 milliliters of product of those products comprised within the definition of non-alcoholic beverages, the products required for the preparation thereof and frozen products.

2. Temporary safeguard provided in the Accession Protocol to the WTO executed by China.

On April 7th, the Ministry of Economy (SE) published the Agreement that amends a similar agreement that provides the administrative provisions that govern the implementation of the temporary safeguard provided by the Accession Protocol to the World Trade Organization (WTO) executed by China. The amendment seeks to acknowledge the authority of the SE to impose the safeguard measures that are the result of the relevant administrative procedure. The foregoing is the result of the amendments made to the Foreign Trade Law during January past, which grant in favor of the SE authority that before was solely vested on the Federal Executive Branch.

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3. Exhibits to the Foreign Trade Rules.

On April 10th, the Ministry of Finance (SHCP) published Exhibits 1, 2, 3, 4, 7, 10, 12, 13, 17, 18, 19, 21, 22, 25, 28 and 29 to the Foreign Trade Rules for 2006, which were published on March 31st, 2006.

4. Decree on the definitive importation of used automotive vehicles.

On April 26th, the SE published the Decree that establishes the conditions for definitive importation of used automotive vehicles that are destined to remain in the northern border strip of México, in the States of Baja California and Baja California Sur, in the partial region of the State of Sonora and in the municipalities of Cananea and Caborca, State of Sonora, which abrogates the Decree published in the Federal Official Gazette on February 8, 1999 and its amendments.

Legislative Matters

5. Amendments to the Commercial Code (Código de Comercio)

On April 26th, the SE published the Decree that amends article 1056, and sections V and VI of article 1068 of the Commercial Code to read as follows:

“Article 1056.- Anyone who in accordance with the law is fully capable of exercising his or her rights may appear before trial. Those individuals who do not fall within the foregoing case, shall appear before trial through their legitimate representatives, or those personas that are responsible for making up for their incapacity. Those persons that are absent or ignored shall be represented as provided by the Federal Civil Code.”

Article 1068, which refers to the manner in which process may be served during judicial proceedings now states that they may be sent by certified mail (section V) and by certified telegraph (section VI).

WTO Matters

6. Report by the Appellate Body of the WTO

On April 18th, the Appellate Body (AB) published its report in connection with the matter called “United States – Laws, Regulations and Methodology for Calculating Dumping Margins (“Zeroing”)”, which was presented to the WTO by the European Communities (EC).

The Dispute Settlement Body previously determined that the methodology that was contested by the EC is in fact a rule – and, therefore, a measure- that is incompatible in and of itself with the WTO. Thereafter, the AB analyzed whether the zeroing procedure constitutes a measure that may be subject to contest before a Panel. In this regard, the AB concluded that the practice of zeroing:

- a. Constitutes a measure in light of the fact that these may comprise not only the acts of application of a law, but also acts that provide for rules or provisions that are destined to be applied generally and prospectively.
- b. It is a general and prospective in nature because it is *always* included in computer software; it is a *constant component*, and it is applied *without exception*.

For reasons other than those stated above, the AB up-held the Panel Report.

7. WTO Negotiations

After the meeting of the 149 Member Countries of the WTO held in Geneva, the Director General, Pascal Lamy, acknowledged before the press that negotiations would not achieve good results before April 30th, which was the term set in November during the Ministerial meeting in Hong Kong. This is the result of the lack of agreement between North and South regarding Agriculture. Accordingly, the Director General refrained from indicating a new term for achievement of an agreement on the reduction of customs duties. ■