

1. Definitions of General Application

1.2.1. For the purposes of this Decree, unless otherwise specified:

- I. **Agreement of Permits** (*Acuerdo de Permisos*) is the Agreement that establishes the classification and codification of merchandise, the imports and exports of which are subject to the Previous Import Permit issued by the Mexican Ministry of Economy, published in the Diario Oficial (DOF) on November 9, 2005, and its amendments;
- II. **ALTEX Decree** (Decreto ALTEX) is the Decree for the Promotion and Operation of Highly Exporting Companies, published in the DOF on May 3, 1990, and its amendments;
- III. **ECEX Decree** (Decreto ECEX) is the Decree for the Establishment of Foreign Trade Companies published in the DOF on April 11, 1997;
- IV. **Maquila Decree** (Decreto Maquila) is the Decree for the Promotion and Operation of the Maquiladora Export Industry, published in the DOF on June 1, 1998, and its amendments;
- V. **PITEX Decree** (Decreto PITEX) is the Decree that establishes the Temporary Import Program to Produce Export Goods, published in the DOF on May 3, 1990, and its amendments;
- VI. **PROSEC Decree** (Decreto PROSEC) is the Decree that establishes several Sector-Specific Tariff Reduction Programs (PROSECs), published in the DOF on August 2, 2002, and its corresponding amendments;
- VII. **DOF** (Diario Oficial) is the Diario Oficial, Mexico's Official Gazette;
- VIII. **Tariff Headings** (Fraccion Arancelaria) are the tariff classification headings established under Mexico's Harmonized Tariff Schedule;
- IX. **LA** (Ley Aduanera) is Mexico's Customs Law;
- X. **LCE** (Ley de Comercio Exterior) is Mexico's Foreign Trade Law;
- XI. **LFPA** (Ley de Procedimiento Administrativo) is Mexico's Federal Law of Administrative Procedures;
- XII. **LISR** (Ley del Impuesto sobre la Renta) is Mexico's Federal Income Tax Law;
- XIII. **Maquila** is the program established under the Decree for the Promotion and Operation of the Export Maquila Industry, published in the DOF on June 1, 1998 and its amendments;
- XIV. **PITEX** is the program established under the Decree creating the Temporary Import Program to Produce Export Goods, published in the DOF on May 3, 1990, and its amendments;
- XV. **PROSEC** is the program established under the Decree creating several Sector-Specific Tariff Reduction Programs (PROSECs), published in the DOF on August 2, 2002, and its amendments;
- XVI. **RLCE** (Reglamento de la Ley de Comercio Exterior) is Mexico's Foreign Trade Law Regulations;

XVII. 8th Rule (Regla Octava) is the Rule 8th¹ of the complementary rules established under Article II, Item II of Mexico's Harmonized Tariff Schedule (HTS) for the application and interpretation of the HTS.

XVIII. Tariff (Tarifa de la Ley de los Impuestos Generales de Importacion y Exportacion) is Mexico's Harmonized Tariff Schedule (HTS);

XIX. SE (Secretaria de Economia) is the Mexican Ministry of Economy;

1.3. Foreign trade proceedings before the Ministry of Economy:

1.3.1. Foreign trade procedures before SE can be carried out in person through at the SE or through electronic communications. In either case, users must use the corresponding forms for each procedure, available at: www.cofemer.gob.mx

1.3.2. Interested parties carrying out foreign trade procedures are required to submit one primary identification document from the following list:

- I.** Voting ID Card with photo (Credencial para votar con foto);
- II.** Professional practice ID Card (Cedula Profesional);
- III.** Passport;
- IV.** Immigration Form with photo (Forma Migratoria con foto);
- V.** Military Service Card (Cartilla del Servicio Militar Nacional);
- VI.** Naturalization Letter (Carta de Naturalizacion);
- VII.** Immigration Credential (Credencial de Inmigrado); or
- VIII.** Consular ID Card (Certificado de Matricula Consular de alta seguridad digital)

1.3.3. Interested parties carrying out foreign trade procedures must present one of the following documents as proof of residency. The document must include the applicant's name and residential address:

- A utility bill no more than three months old;
- A bank statement no more than three months old;
- A valid lease or sub-lease agreement and photocopy of the most recent payment receipt;
- Most recent pay stub; or
- A residence letter issued by the municipal authority no more than three months old.

1.3.4. In the absence of rules, criteria or procedures that establish regulations on foreign trade matters published in the DOF, SE will act based on the principles of economy, promptness, efficiency, legality and good faith, in conformity with Article 13 of the LFPA.

2. Duties and Non-Tariff Trade Restrictions

¹ Rule 8th allows importers to import merchandise under a particular tariff heading that has different rates than the corresponding Most-Favored Nation (MFN) rate.

2.1. General Regulations

2.1.1. For the purposes of Article 5, Item I of the LCE, SE must:

I. Analyze the effects of the measure, considering the following:

- a)** Qualitative and quantitative valuation of the forecasted impact upon overall prices, employment, production chains, government revenue, earnings or losses of the productive sector, costs or benefits for consumers and the effects on supply and demand.
- b)** Net effect on the well-being of the country, if appropriate.
- c)** Effects on the market competition, if appropriate.
- d)** Other relevant well-being analysis of the country that are deemed relevant.

II. Present and analyze statistical information that includes:

a) World Data

- i)** Historical trends per country of production for consumption, exports and imports of the analyzed goods.

b) National Data

- i)** Annual and monthly trends of exports and imports in both value and volume.
- ii)** Production trends.
- iii)** National consumption trends.
- iv)** Current and accumulated figures of ii) and iii)
- v)** Imports and exports per country and per special import/export regime (*e.g.*, definitive, temporary, and maquila) covering the period of the most recent immediate year.
- vi)** Industry costs, if appropriate.
- vii)** Protection effective analysis (Análisis de Protección Efectiva), if appropriate.
- viii)** Recent trends of nominal prices or implicit import and/or export prices by country; or trends of consumer, producer, or raw material index prices of the analyzed products.
- ix)** Market share of Mexican exports of the analyzed product in main export markets.
- x)** Employment statistics, if relevant.
- xi)** Market structure statistics, if relevant.
- xii)** In the case of final goods, recent trends of the expenditure share by household of the analyzed good regarding the total expenditure of Mexican households, if relevant.

Any other relevant studies or statistical studies that are deemed relevant.

2.1.2. In conformity with Article 56 of the LA, for the purposes of merchandise subject to comply with any regulation or non-tariff restriction, and such regulation has ceased to exist prior to the date that the merchandise is to be presented to National Customs authorities, it will not be necessary to comply with the corresponding regulation or restriction.

2.2. Previous Import and Export Permits (Permiso Previo de Importacion o Exportacion)²

For the purposes of Articles 22 and 23, paragraph II of the RLCE, when dealing with merchandise subject to articles 1, 2, 6, and 7 of the Agreement of Permits, the country of origin or destination stated in the previous import or export permit will have an “indicative character.” Therefore, it will remain valid even if the country of origin stated in the previous export/import permit is different from the country, from which it proceeded or to which it is destined to.

2.3. Countervailing Duties (Cuotas Compensatorias)

2.3.1. For the purposes of Temporary Article 6 of the Decree that Modifies, Adds, and Repeals Various Provisions of the Customs Law, published in the DOF on December 31, 2000, the merchandise entering Mexican territory under the special import/export regimes established in Article 6 will be subject to the corresponding antidumping duties in place, provided that the duties were put in place as a result of an antidumping investigation.

3. Export Promotion Programs

3.1. General Regulations.

3.1.1. For the purposes of article 4A, 5, and 6 of the Maquila Decree, ALTEX Decree and the PITEC Decree, Maquila, ALTEX and PITEC companies that produce intangible goods may present official shipping documents (*pedimentos de exportacion*) or the following documents:

- I.** Annual Income Tax Statement for the previous fiscal year or most recent notarized financial statements
- II.** A notarized list of invoices for the previous fiscal year or the current period, containing the invoice number, date, description of the export merchandise and its value (in both dollars and pesos).

For the purposes of this rule, an “intangible good” means software, television and radio programs, among others.

3.1.2. For the purposes of Articles 4A, 5, 6, and 10 of the Maquila Decree, ALTEX Decree, PITEC Decree, and ECEC Decree, users of these programs are not obliged to comply with the export requirements (*requisitos de exportacion*) during the fiscal year when the programs were authorized, if they present instead a report containing the foreign trade operations corresponding to the fiscal year when the program was authorized.

² The criteria corresponding to the *previous export and import permits* and to the *sector-specific promotion programs* of SE published in the DOF on January 30, 2001 and subsequent amendments of May 24, 2001 and January 29, 2004, no longer remain valid.

3.1.3. For the purposes of Articles 4A, 5, and 6 of the Maquila Decree, the ALTEX Decree, the PITEX Decree, users of these programs that carry out their operations with domestic or imported raw materials with definitive importation and that export their products indirectly through other companies, can present proof of their foreign trade operations through a letter issued by the final exporter which contains the value and volume of the invoiced goods and the percentage of the good that was meant for export.

3.2. PITEX and Maquila Programs

3.2.1. For the purposes of Article 2, item V of the PITEX Decree, it is admissible to authorize a *PITEX Program Por Planta* if the industrial vessel has facilities that are physically independent from the rest of the company.

3.2.2. For the purposes of Article 2, item V of the PITEX Decree, a *differentiated product* must have a different production line than any other products produced by the company and must not be involved in any other production company line.

3.2.3. For the purposes of Articles 6 and 19 of the Maquila Decree and PITEX Decree, two or more companies under the PITEX or Maquila Program can share the same address, provided that they own the property, and that both facilities are independent.

3.2.4. For the purposes of Articles 6 and 19 of the Maquila Decree and the PITEX Decree, regarding the inspection prior to the approval of a PITEX or Maquila program, the inspector must verify that the applicant has the infrastructure to perform the operations carried under the Program, as follows:

- I.** If the applicant owns only the building where the operations will be carried out, SE will authorize the Program in conformity with Articles 5 (items III and IV) and 8 (item III) of the PITEX and Maquila Decrees respectively.
- II.** If the applicant owns the machinery and equipment to perform the operations under the Program, SE will authorize an "extension" of the Program in conformity with Articles 5 (items I and 8), item I of the Maquila and PITEX Decrees respectively. Thus, SE will conduct another inspection visit.

3.2.5. For the purposes of Articles 4A and 6 of the Maquila Decree and PITEX Decree, users of these programs will not have to calculate the pre-operation period as established under Article 38 of the LISR.

3.2.6. For the purposes of Article 12, item II of the Maquila Decree, "approved merchandise" under a Maquila Program means those items included in the SICEX-Maquila Registry (Registro SICEX-Maquila), as referred in the Decree that Established the Code of the National Registry for the Export Maquila Industry, published in the DOF on May 3, 2001.

3.2.7. For the purposes of Articles 12, item II and 20, item II of the Maquila Decree and PITEX Decree, an "authorized tariff heading" for a particular special import and/or export program encompasses only the merchandise classified under that authorized tariff heading regardless of its tariff classification in such program.

3.2.8. For the purposes of Article 3, item X and 2, item VIII of the Maquila Decree and PITEX Decree, the sub-maquila operation *also* involves "complementary industrial processes" for the production of goods that the company does not produce, as long as

these are in conformity with the company's activity stated under the special import/export program.

4. Other Promotion Mechanisms

4.1. PROSEC

4.1.1. For the purposes of article 2, item III of the PROSEC Decree, a company registered as an "indirect supplier" will only be able to supply the imported merchandise under the PROSEC decree to a direct producer.

4.1.2. For the purposes of Article 2, item III of the PROSEC Decree, "indirect suppliers of steel raw materials" include service centers with machinery and the equipment to process steel products that carry out at least one of the following operations: longitudinal cut, transversal cut, leveled, folded, coined, stamped, oxicorte, figure cut, or any other cut that refers to the processing of the steel products, provided that the service centers are registered under the program of the direct producer which acquires the merchandise.

4.1.3. For the purposes of rule 4.1.2., indirect producers can choose from one of the following modalities:

- I. Indirect 8th Rule Producer**, when it imports under tariff heading 9802.00.26 of Mexico's HTS to perform one of the processes stated in rule 4.1.2.
- II. Sector-Specific Indirect Producer**, when it imports under tariff heading listed under Article 5 of the PROSEC Decree to perform one of the processes stated in rule 4.1.2.

5. Integral System of Foreign Trade Data (SIICEX)

5.1. SE creates the Integral System of Foreign Trade Data (Sistema Integral de Informacion de Comercio Exterior – SIICEX) as a complimentary tool that facilitates access to government data on foreign trade topics at: www.siicex.gob.mx

The SIICEX is composed by the following branches:

- I. SIICETECA.** A virtual library in Spanish that has information on legal texts related to foreign trade topics in various formats, related publications, and forms and procedures that apply to each regulation.
- II. Mexico's HTS.** The most updated version of Mexico's HTS in Spanish, including duties and general observations.
- III. Foreign Trade Newsletter.** An electronic newsletter that provides relevant news on foreign trade issues and other relevant topics for the trade community.
- IV. FAQ Section.** A Frequently Asked Questions (FAQ) section, which also contains information on trade statistics and other relevant topics.
- V. Monthly Update.** A monthly summary of the decrees, rules, and regulations issued in the Diario Oficial by those agencies involved in foreign trade regulations.