

***Diario Oficial, issued by the Mexican Ministry of Finance on March 8, 2007***

**SOLE ARTICLE.** The modifications include the following relevant additions and amendments to the Decree published on July 21, 2006, and its amendments (*See W&C JMC Weekly Report August 1, 2006*).

**Amendments**

Items XXVII, XXIX and XXX of rule 1.2.1 are amended.

**Additions**

Items XXXI, XXXII and XXXIII are added to rule 1.2.1.

Rules 3.1.4, 3.2.17 and 3.2.18

Chapter 3.4

Rules 3.4.1 to 3.4.12, 4.1.7; and Annex Three

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**Chapter 3.4      Specific requirements of IMMEX Program**

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**1.2.1...**

...  
**XXVII.**    **NOM**, are Official Mexican Norms;

...  
**XXVIII.**    **Dollars** are U.S. dollars;

**XXIX.**    **IMMEX Program** is the authorized program as established in the *Decree for the Promotion of the Manufacturing, Maquiladora, and Export Services Industries*;

**XXX.**    **Registered Public Accountant** is the registered public accountant before the Mexican Ministry of Finance in conformity with article 52 of Mexico's Federal Tax Code;

**XXXI.**    **INEGI**, is Mexico's National Statistics Institute;

**XXXII.**    **LIEG**, is Mexico's Statistics and Geography Information Law;

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**3.1.4** For the purposes of Articles 24, item 1, 25 and transitory article four of the IMMEX Decree, 5 and 7 of the ALTEX Decree<sup>1</sup> and 10, items III and IV of the ECEX Decree,<sup>2</sup> companies that hold a program must present the annual report included in Annex 3 of this Decree, in conformity with the filling instructions included in Annex 3.

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<sup>1</sup> **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;

<sup>2</sup> **ECEX Decree** (Decreto ECEX) is the Decree for the Establishment of Foreign Trade Companies published in the DOF on April 11, 1997;

**3.2.17** For the purposes of Articles 21, 24, item VII, numeral b), 29 and transitory Article Five of the IMMEX Decree, the companies to which SE assigned an IMMEX Program number must provide the following in conformity with transitory Article Five of the IMMEX Decree no later than June 30, 2007:

- I. The addresses of the premises where operations under the IMMEX program take place, by presenting a letter in accordance with the provisions established in the official procedures as established in the *Federal Registry of Services and Official Procedures (SE-03-076-G) –Changes to the Manufacturing, Maquiladora, and Export Services Industries Program-IMMEX*<sup>3</sup>; the modality (*i.e.*, changes, registration or elimination of business address –*i.e.*, *domicilio fiscal*, and plants) by attaching copy of the written acknowledgement (receipt) from the Federal Taxpayer’s Registry.
- II. The physical and moral persons<sup>3</sup> that perform sub-manufacturing operations, by presenting a letter in accordance with the provisions established in the official procedures as established in the *Federal Registry of Services and Official Procedures (SE-03-076-B) –Changes to the Manufacturing, Maquiladora, and Export Services Industries Program-IMMEX*<sup>3</sup>; modality “Registry of Sub-manufacturing companies”, by attaching copy of the receipt of registration to the Federal Taxpayer’s Registry, which should correspond to the physical or moral person that carries out sub-manufacturing operations.

The companies identified in the above paragraph will be able to continue using the business addresses and will be able to continue carrying out sub-manufacturing operations with the physical or moral persons that register before SE by June 30, 2007.

**3.2.18** For the purposes of Article 25, paragraph fifth and sixth of the IMMEX Decree, and in conformity with Mexico’s LIEG, companies with an IMMEX program must submit to INEGI the following information for statistical purposes:

- I. Monthly, within the first 20 days of the month. The information must be submitted through the following web site:

[http://www.inegi.gob.mx/prod\\_serv/contenidos/espanol/captacion.asp?c=154&s=prod\\_serv&e=#](http://www.inegi.gob.mx/prod_serv/contenidos/espanol/captacion.asp?c=154&s=prod_serv&e=#)

or in hard copy to INEGI’s offices.

- II. Yearly, within 30 days following the date of arrival of INEGI’s request for statistical information

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### **3.4 About the specific requirements of the IMMEX Program**

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<sup>3</sup> Any reference to "moral persons" in Mexican law, including tax laws, include any one of the following companies:

- Sociedad en nombre colectivo (general partnership)
- Sociedad en comandita simple (limited partnership)
- Sociedad de responsabilidad limitada (limited liability company)
- Sociedad anonima (corporation)
- Sociedad en comandita por acciones (limited share partnership); and
- Sociedad cooperativa (cooperative company).

**3.4.1** For the purposes of Article 5, item I of the IMMEX Decree, the specific requirements for the temporary importation of merchandises included in Annex II of the IMMEX Decree, are as follows and must be attached to the *application for extension of sensible product (solicitud de ampliacion de producto sensible)* to import under the IMMEX Program:

- I. A letter specifying:
  1. Information about the merchandise to be imported:
    - a) Tariff heading and unit of measure, in conformity with the Mexico's Harmonized Tariff Schedule (HTS), and
    - b) Maximum amount to be imported per year and its value in U.S. dollars.
  2. Information about the final product to be exported that will be manufactured with the merchandises specified in the above item 1. The following information is required:
    - a) Description: In conformity with the specifications required in the export official shipping document (*pedimento de exportacion*). The description must match the commercial description specified in the commercial invoice, and
    - b) Tariff heading and unit of measure, in conformity with Mexico's HTS, and
- II. A report certified by a registered public accountant that contains the following:
  - a) The location of the business address and the addresses where the company carries out operations under the IMMEX Program;
  - b) The existence of machinery and equipment to perform industrial processes;
  - c) The monthly installed production capacity to carry out industrial processes (per 8-hour shift); and
  - d) The manufactured products.
- III. For the purposes of merchandises listed in Annex II, item I of the IMMEX Decree, the company must also present documents that provide evidence that the company is registered in the Federal Inspection System (TIF), proving its refrigeration capacity, and when applicable, its freezing capacity, as well documentation that proofs the company has the authorization to carry out import procedures, issued by the country where the manufactured products will be exported.

**3.4.2** For the purposes of Article 5, item I of the IMMEX Decree, the resolution by which SE authorizes the *application for extension of sensible product* under the IMMEX Decree, the merchandises specified in Annex II of the IMMEX Decree, must include at least the following information:

- I. Tariff heading of the merchandises to be imported, in conformity with Mexico's HTS;

**II.** Validity of the authorization; and

**III.** The maximum amount in the unit of measure that could be imported.

**3.4.3** For the purposes of Article 5, item I of the IMMEX Decree, in order to obtain a subsequent authorization for an extension to import under the IMMEX Program the merchandises specified in Annex II of the IMMEX Decree, the petitioner must attached to the application the following information:

**I.** The information specified in rule 3.4.1, item I, numeral 1, and

**II.** A report signed by the legal representative of the company that specifies:

**a)** Amount of merchandise imported under the previous authorization of the merchandises included in Annex II of the IMMEX Decree;

**b)** Amount of products manufactured with the imported merchandise specified in the above paragraph, including the number and date of the official shipping return documents (*pedimentos de retorno*)

**c)** Amount of loss and waste corresponding to the industrial processes.

**d)** Amount of each material, in the unit of measure, in conformity with Mexico's HTS used in the productive processes, indicating the percentage of waste

**3.4.4** For the purposes of Article 5, item I of the IMMEX Decree, a subsequent authorization for extension to import under the IMMEX decree the merchandises listed in Annex II of the IMMEX Decree, provided that the company has exported at least seventy percent of the amount of one of the following concepts:

**I.** The amount authorized in the previous authorization, provided that it was fully used;

**II.** The amount that results from adding the authorizations issued in the last twelve months; or

**III.** The actual amount imported, when the total amount authorized in the previous authorization was not fully used and its validity has expired.

**3.4.** For the purposes of rules 3.4.2., and, 3.4.3 of this Decree, the maximum amount that SE could authorize would be an amount equivalent to up to twelve months of the installed production capacity, in conformity with the report to which rule 4.4.1, item II of this Decree refers to.

**3.4.6** For the purposes of Article 5, item I of the IMMEX Decree, the validity of authorizations for extension and authorizations for subsequent extensions to import merchandises listed in Annex II of the IMMEX Decree will be of twelve months.

**3.4.7** For the purposes of Article 5, item I of the IMMEX Decree and rules 3.4.1 to 3.4.6, companies with an IMMEX program that export its entire production are exempt from complying with these provisions.

Companies with an IMMEX Program that have authorization to import merchandises listed in Annex II of the IMMEX Decree can benefit from this exemption if they have operated under those guidelines for at least one year.

**3.4.8** For the purposes of Article 5, item II and Annex III of the IMMEX Decree, the holder of an IMMEX Program can temporarily import the merchandises listed in this Annex, as follows:

- I.- The maximum import amount (when it requests authorization to import these merchandise for the first time) for the first six months of operation of an IMMEX Program will be the *lesser* amount of items a) or b):
  - a) The projection of the value of exports in U.S. dollars for the following six months subsequent to the beginning of operations; and
  - b) The installed production capacity, considering the number of employees, including, if necessary, the number of employees of each of the companies that perform sub-manufacturing operations.

That is,

$$MMI^j = \text{Min} \{ X^e, N * \varphi \}$$

Where:

$MMI^j$  = Maximum amount of imports of the company (j) for the first six months of operations of the IMMEX Program that requests authorization for the first time, in U.S. dollars.

$X^e$  = Projection of the value of exports of the company for the next six months subsequent to the beginning of operations; and

$N$  = Number of employees/workers, including the ones that carry out sub-manufacturing operations

$\varphi$  = Factor of semiannual labor productivity equivalent to 22,007 U.S. dollars for worker.

- II.- For companies, with an IMMEX Program that have more that six months of operation importing the above mentioned merchandises, the maximum amount of imports will be the equivalent to their maximum level of stocks.

The maximum level of stocks is equal to the value that results higher from items a) or b), plus 30 percent:

- a) The average of exports carried in the previous six months, and
- b) The exports carried in the previous month.

That is,

$$\text{MMI}^j = \text{Min} \{ X^e, N * \varphi \}$$

Where:

$\text{NMI}_t^j =$  Maximum level of company stocks (j) in the month (t), in U.S. dollars.

$\frac{1}{6} \sum_{i=1}^6 X_{t-i}^j =$  Average of the exports carried by the company (j) in the previous six months, in dollars.

$X_{t-1}^j =$  Exports carried by the company (j) in the previous month, in U.S. dollars.

**3.4.9** For the purposes of rule 3.4.8, item I of this Decree, the following must be attached to the application for authorization of extension of the IMMEX Program:

**I.-** A report certified by a registered public accountant that certifies the following:

- a) The location of the business address and the addresses where operations under the IMMEX Program are carried out;
- b) The machinery and equipment to perform the industrial processes;
- c) The monthly installed production capacity to carry out the industrial processes per eight-hour shift, and
- d) The manufactured products.
- e) The number of employees of the IMMEX program holder of the company, including, if necessary, the number of employees of each of the companies that perform sub-manufacturing operations.

**II.-** A letter from the legal representative of the company that states the projection of the value of exports in U.S. dollars for the next six months as of the start date of operations.

**3.4.10** For the purposes of Article 5, item II of the IMMEX Decree, the amounts to which rule 3.4.8 of this decree refers to, are eligible for an extension by the holder of the IMMEX Program. Interested parties must present a letter before SE indicating:

**I.-** For those companies to which rule 3.4.8, item I refers to, the reasons for the request of items a) or b):

- a) Utilization of idle capacity, including, when applicable, the utilization by companies that carry out sub-manufacturing operations, or
- b) Extension of installed capacity, or when applicable, of each one of the companies that carry out sub-manufacturing operations.

**II.-** In case of the companies to which rule 3.4.8 refers to, item II, the percentage of additional utilization of idle capacity or extension of installed capacity for the next 6 months.

**3.4.11** The extension of the amounts to which rule 3.4.10 of this Decree refers to, will be granted as follows:

**I.-** For the hypothesis established in rule 3.4.10, item I, it will be equivalent to the maximum monthly value, in U.S. dollars, of exports carried from the beginning of operations multiplied by the months remaining to conclude the first six months of operations.

**II.-** For the hypothesis established in rule 3.4.10, item II, the extension for each of the following six months subsequent to the authorization of the application for extension, will be the value resulting from what it is established in rule 3.4.8, item II for the corresponding month, multiplied by factor  $\alpha$ , which will be determined for each of the six months subsequent to the application, according to the following formula:

$$\alpha_i = \left(1 + \beta * \frac{\gamma}{6}\right) \text{ con } i = 1, 2, \dots, 6 \text{ y } \gamma = 6, 5, \dots, 1$$

Where:

$\alpha$  = Factor that must be multiplied by the amount that results from what it is established in rule 3.4.8, item II, for the corresponding month

$\beta$  = Factor of utilization or extension of installed capacity, in conformity with rule 3.4.10, item II

$\gamma$  = Parameter, which value begins in six and ends in one, for each of the six months subsequent to the authorization

As of the seventh month subsequent to the authorization for extension, the provisions established under rule 3.4.8, item II will again apply.

**3.4.12** For the purposes of Article 32 of the IMMEX Decree, SE will disclose the following additional information related to the IMMEX Programs for the textile and garment sectors in its webpage, as follows:

**I.** Modality of the IMMEX Program;

**II.** Number of employees/workers;

**III.** Projection of the value of exports for the first six months subsequent to the beginning of operations;

**IV.** Name and commercial name of the companies that carry out sub-manufacturing operations and the number of employees that works in each one of them.

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**4.1.7** For the purposes of Article 8 of the PROSEC Decree, <sup>4</sup> the holders of the this program must present the annual report included in Annex 3 of this Decree in conformity with the provided instructions for filling out this report.

### **TRANSITORY ARTICLES**

**ARTICLE ONE.-** The Decree entered into effect the day after its publication in the DOF. Amendments to Rules 3.4.8 to 3.4.11 will enter into effect sixty days following the date of entry into force of this Decree.

**ARTICLE TWO.-** For the purposes of rule 3.2.15 and the 2006 annual report, those companies that were given a Program number by SE in conformity with Transitory article Five of the IMMEX Decree, will be in compliance with the provisions established in rule 3.2.15.

In conformity with Transitory Article Five of the IMMEX Decree, SE will announce in its webpage [www.economia.gob.mx](http://www.economia.gob.mx) the nomenclature for companies, which have not received a Program number due to a lack of compliance with article 11, item III of the IMMEX Decree as a result of SAT's (Tax Administration Service) verification, so that the companies follow up with state and local tax authorities and solve this problem in order to obtain an IMMEX Program number.

**ARTICLE THREE.-** The decree that established the specific requirements for temporarily imported merchandise and its corresponding amendments published in the DOF on October 30, 2003 is abolished. The authorizations granted under this Decree will remain in effect in conformity with the terms and conditions by which were granted.

**ARTICLE FOUR.-** Maquiladora and PITEX Program holders that as of the date of entry into force of this decree have authorization to import vehicles in conformity with the provisions established in the Decree that is abolished, must request their adherence to the corresponding Program if they want to continue to import them.

**ARTICLE FIVE.-** Maximum stock level formulas [applicable only to those companies in the textile and garment sectors].

**ARTICLE SIX.-** For the purposes of rule 1.2.1, item XXX of this Decree it will be understood that the holders of an IMMEX Program are those physical and moral persons that received a Program authorization by SE in conformity with the IMMEX Decree of November 13, 2006, as well as those persons to which transitory article five of the IMMEX Decree refers to, regardless whether they have been assigned a Program number. Those companies that have not received a Program number must follow the guidelines established in the Federal Registry of Services and Official Procedures for procedures concerning PITEX and Maquiladora programs, which can be found in the Federal Regulatory Commission (COFEMER) webpage [www.cofemer.gob.mx](http://www.cofemer.gob.mx), while SE assigns them the corresponding Program number.

### **Annex 3**

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<sup>4</sup> **PROSEC Decree** (Decreto PROSEC) is the Decree that establishes several Sector-Specific Tariff Reduction Programs (PROSECs), published in the Diario Oficial on August 2, 2002, and its corresponding amendments.



No. de IMMEX	No. de ALTEX	No. de ECEX	No. de PROSEC
PERIODO QUE CUBRE EL REPORTE: (MES/AÑO)_____ AL (MES/AÑO)_____			
<b>I</b>	<b>BALANZA COMERCIAL (MILES DE PESOS)</b>		
1) VENTAS TOTALES (a)	2) TOTAL DE EXPORTACIONES (b)	3) TOTAL DE IMPORTACIONES (c)	4) SALDO (b-c)
			5) PORCENTAJE DE EXPORTACION (b/a*100)
<b>II</b>	<b>PERSONAL OCUPADO</b>		
6) TOTAL DE PERSONAL OCUPADO (PERSONAL ADMINISTRATIVO Y OBREROS) AL CIERRE DE LOS DOS ULTIMOS SEMESTRES DEL EJERCICIO FISCAL QUE SE REPORTA		AÑO	ADMINISTRATIVOS
ENERO-JUNIO			
JULIO-DICIEMBRE			
<b>III</b>	<b>RELACION DE BIENES PRODUCIDOS POR PRODUCTO SEÑALANDO FRACCION ARANCELARIA</b>		

7) BIENES PRODUCID OS	8) FRACCION ARANCELARI A Y UNIDAD DE MEDIDA	9) SECTOR	VOLUMEN (TOTALES)		
			10) TOTA L DE BIENES PRODUCIDOS	11) MERCADO NACIONAL	12) EXPORTACIONES

### Instructions for Filling Out Annual Report of Foreign Trade Activities

This report must be filed electronically through the Annual Module of Reports IMMEX, ALTEX, ECEX AND/OR PROSEC by May 31 of the immediate subsequent year to which the information refers to. The report can be submitted at [economia.gob.mx](http://economia.gob.mx) following these instructions:

1. File the report electronically at [www.economia.gob.mx](http://www.economia.gob.mx)
2. Print the receipt provided by the Annual Module of Reports IMMEX, ALTEX, ECEX AND/OR PROSEC en Internet.

Number of IMMEX, ALTEX, ECEX OR PROSEC: include the registration Program number.

#### I. TRADE BALANCE (THOUSANDS OF PESOS)

- 1) **Total sales:** include the total sales in pesos, as provided for in the balance sheet of the company, or annual income tax statement.

Companies with IMMEX programs will also be able to calculate their total sales by providing the total invoicing (for both domestic and export markets) of the products registered in their program, which must correspond to the business addresses of the authorized program.

- 2) **Total exports:** Totalize all shipping documents for direct and indirect exportation in pesos. For those companies that have consignment carrier facilities, it will suffice with including the value added of the merchandise (*facturacion real de exportacion*).
- 3) **Total imports:** Totalize definitive, temporary, direct, and indirect imports in pesos. For this field, companies must only take into account raw materials, parts, and components that belong to the holder of the program.
- 4) **Balance:** Total exports minus total imports.  
The system will calculate this amount automatically.
- 5) **Percentage of exportation:** total exports divided by total sales. The system will calculate this amount automatically.

Companies that have an IMMEX program must only fill out fields 1) total sales and 2) total exports in this field.

## II. EMPLOYED PERSONNEL

- 6) **Total of employed personnel:** include the total number of employees including administrative staff and new hires counting from the end of the last two semesters reported in the annual tax statement.

## III. PRODUCED GOODS INCLUDING TARIFF HEADING

- 7) **Produced goods:** include the product description that was manufactured in conformity with the tariff heading authorized in the program, in conformity with the commercial invoice.
- 8) **Tariff heading and unit of measure:** indicate the tariff heading and unit of measure in conformity with Mexico's HTS of the good to which item 7) and article 4 of PROSEC Decree refers to.
- 9) **Sector:** indicate the sector to which each good pertains to, in conformity with the PROSEC Decree.
- 10) **Total of goods produced:** indicate the volume in the unit of measure established in Mexico's HTS for each one of the manufactured goods.
- 11) **Domestic market:** indicate the volume in the unit of measure established in Mexico's HTS for each one of the goods destined to the domestic market.
- 12) **Exports:** indicate the volume in the unit of measure established in Mexico's HTS for each one of the final goods meant for export.

The difference between the total of item 10) and the sum of numerals 11) and 12), will be the stock of final goods (inventario de producto terminado) that the company recorded on December 31 of the previous tax year.

### FIELDS TO BE FILLED OUT BY EACH PROGRAM

The following chart provides the fields that each Program must fill out:

Program/Field	I	II	III
IMMEX	✓ <sup>1/</sup>	✓ <sup>2/</sup>	
ALTEX	✓		
ECEX	✓		
PROSEC	✓		✓

<sup>1/</sup> Companies with an IMMEX program should only fill out fields 1) total sales and 2) total exports of Item I of the Form in Annex 3, regardless whether they are registered in another sector specific program.

<sup>2/</sup> Only companies with an IMMEX Program that temporarily imported merchandise listed in Annex III of the IMMEX Decree and that manufactured export goods in the garment sector classified in Chapters 61 to 63 and in subheading 9404.90 of Mexico's HTS, are required to fill out this field.