INDEX

TITL	E 1
------	-----

GENERAL PROVISIONS

Chapter 1.1 Objectives

Chapter 1.2 Definitions

Chapter 1.3 Ministry of Economy's actions on foreign trade issues.

Chapter 1.4 Public Information

TITLE 2

DUTIES AND FOREIGN TRADE NON TARIFF MEASURES AND RESTRICTIONS

Chapter 2.1 General Provisions

Chapter 2.2 Previous Permits and Automatic Notices

Chapter 2.3 Quotas

Chapter 2.4 Mexican Official Norms (Normas Oficiales Mexicanas- NOMs)

Chapter 2.5 Countervailing Duties

TITLE 3

PROMOTION PROGRAMS AND MECHANISMS

Chapter 3.1 General Provisions

Chapter 3.2 Manufacturing, Maquiladora, and Export Services Industry (IMMEX)

Chapter 3.3 About Specific Requirements of the IMMEX Program

Chapter 3.4 Sector-Specific Tariff Reduction Programs (PROSECs)

Chapter 3.5 Highly Exporting Companies (ALTEX)

Chapter 3.6 Foreign Trade Companies (ECEX)

Chapter 3.7 Draw-back

Chapter 3.8 Other Provisions

TITLE 4

ABOUT THE SYSTEM OF FOREIGN TRADE DATA (SISTEMA INTEGRAL DE INFORMACION DE COMERCIO EXTERIOR -SIICEX)

ANNEXES

To facilitate the location of the Annexes to this Decree, the Annex number is the one corresponding to the issued Rule (e.g., Annex 2.2.1 corresponds to rule 2.2.1).

Chapter 2.2	Previous Permits and Automatic Notices	
Annex 2.2.1	Notice that establishes the classification of merchandise (imports and exports) subject to the previous permit requirement issued by SE (Agreement of Permits - Acuerdo de permisos)	
Annex 2.2.2	Criteria and requirements to issue previous permits	
Annex 2.2.7	Request to obtain a previous import permit or a previous export permit and amendments	
Annex 2.2.8	Previous import permit and previous export permit application	
Annex 2.2.13	Automatic Import and Export Notice or New Product Certificate	
Chapter 2.4	Mexican Official Norms (Normas Oficiales Mexicanas- NOMs)	
Annex 2.4.1	Notice that establishes the tariff headings within Mexico's Harmonized Tariff Schedule (HTS) subject to comply with Mexican Official Norms at the point of entry and exit (NOMs Notice – Acuerdo de NOMs)	
Chapter 2.5	Countervailing Duties	
Annex 2.5.1	Notice that establishes which tariff headings within Mexico's HTS are subject to countervailing duties and safeguard measures (Countervailing Duties and Safeguard Measures Notice -Acuerdo de cuotas compensatorias y medidas de salvaguarda)	
Chapter 3.1	General Provisions (Promotion Programs and Mechanisms)	
Annex 3.1.4	Foreign Trade Activities Annual Report	
Chapter 3.2	Manufacturing, Maquiladora, and Export Services (IMMEX)	
Annex 3.2.1	Application to authorize or extend a program under the Manufacturing, Maquiladora, and Export Services (IMMEX)	

 $^{^{1}}$ We have attached the Annexes to this Decree for your reference in three separate word documents (Annex I, Annex I Part II, and Annex I Part III).

Annex 3.2.4 Activities that can be authorized under the "services" modality within the IMMEX Program
--

Annex 3.2.8 Productive Sectors

<u>Chapter 3.4</u> <u>Sector-Specific Tariff Reduction Programs (PROSECs)</u>

Annex 3.4.1 Application to authorize or extend a program under PROSEC

Chapter 3.5 Highly Exporting Companies (ALTEX)

Annex 3.5.1 Application to register at the Highly Exporting Companies (ALTEX) Registry

<u>Chapter 3.6</u> <u>Foreign Trade Companies (ECEX)</u>

Annex 3.6.1 Application to register at the Foreign Trade Companies (ECEX) Registry

Chapter 3.7 Draw-back

Annex 3.7.1-A Application to request a duty drawback refund as a result of unused or altered manufactured goods (DRAWBACK)

Annex 3.7.1-B Application to request a duty drawback refund as a result of inputs incorporated to exported merchandise for exporters that transform the imported good (DRAWBACK)

1. GENERAL PROVISIONS

1.1 Objective

1.1.1 This Decree² seeks to provide the foreign trade rules that fall under SE's scope and organize any other criteria that is required criteria to comply with applicable laws, rules, decrees, and free trade agreements (FTAs).

1.2 Definitions

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

- **I. ALTEX**, is the program approved under the Decree for the Promotion and Operation of Highly Exporting Companies, published in the DOF on May 3, 1990, and its amendments;
- II. ASERCA-SAGARPA (Apoyos y Servicios a la Comercialización Agropecuaria) is the organization to support the commercialization of agricultural goods which is part of the Ministry of Agriculture, Livestock, Rural Development and Fisheries;
- **III. CIIA** (Comisión Intersecretarial de la Industria Automotriz) is the Inter-Departmental Commission of the Automotive Industry;

 $^{\rm 2}\,$ The $\it Decree$ is the Decree published in the DOF on July 6, 2007

_

- IV. COFEMER (Comisión Federal de Mejora Regulatoria) is the Federal Regulatory Commission;
- V. Registered Accountant (Contador público registrado) is the accountant registered before the Ministry of Finance, in conformity with article 52 of Mexico's Tax Code;
- VI. 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;
- VII. Automotive Decree (Decreto Automotriz) is the Decree for the promotion of the competitiveness of the automotive industry and of the domestic market of automobiles, published in the DOF on December 31, 2003;
- VIII. ECEX Decree (Decreto ECEX) is the Decree for the Establishment of Foreign Trade Companies published in the DOF on April 11, 1997;
- **IX. 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;
- X. IMMEX Decree (Decreto IMMEX) is the Decree for the Promotion of the Manufacturing, Maquiladora, and Export Services Industries published in the DOF on November 1, 2006;
- XI. 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 amendments;
- XII. DGCE is the General Directorate of Foreign Trade at SE;
- XIII. DGIB is the General Direction of Basic Industries at SE;
- XIV. DGIPAT is the General Directorate of Heavy and High Technology Industries at SE;
- XV. DOF (Diario Oficial) is Mexico's Official Gazette;
- XVI. Dollars (dolares) are US Dollars;
- XVII. Tariff Heading is the tariff heading within Mexico's HTS;
- **XVIII. Northern Border Strip** (Franja fronteriza norte) is the territory between the northern border limit and a parallel line 20 kilometers inside Mexico within the partial region of the State of Sonora and the Gulf of Mexico as well as the border municipality of Cananea Sonora;
- XIX. INEGI, (Instituto Nacional de Estadística, Geografía e informática) is Mexico's National Institute of Statistics;
- XX. LA (Ley Aduanera) is Mexico's Customs Law;
- XXI. LCE (Ley de Comercio Exterior) is Mexico's Foreign Trade Law;
- **XXII. LFMN** (Ley Federal sobre Metrología y Normalización) is Mexico's Federal Law for Metrology and Standards

- **XXIII. LFPA** (Ley de Procedimiento Administrativo) is Mexico's Federal Law of Administrative Procedures;
- XXIV. LIEG, (Ley de Información Estadística y Geográfica) is Mexico's Statistics Law;
- XXV. LIGIE (Ley de los Impuestos Generales de Importación y de Exportación) is Mexico's General Import and Export General Duty Law;
- XXVI. LISR (Ley del Impuesto sobre la Renta) is Mexico's Federal Income Tax Law;
- **XXVII. LTAIPG** (Ley de Transparencia y Acceso a la Información Pública Gubernamental) is Mexico's Transparency and Access to Public Government Information Law;
- **XXVIII. Rule 8th**³ **Merchandises** (Mercancías de la Regla 8a) are those merchandises specified in item a) and b) of the complementary rules for the operation of Mexico's HTS, such as inputs, materials, parts, components, machinery and equipment, packing and packaging materials inclusive and in general, those goods used to manufacture final goods as established in the Decree that created the Sector-Specific Tariff Reduction Programs (PROSECs);
- XXIX. NOM's (Normas Oficiales Mexicanas) are Mexican Official Norms;
- **XXX. Handicapped Person** (Persona con discapacidad) is a person with disabilities that has a certificate endorsed by an official public health institution;
- XXXI. IMMEX Program (Programa IMMEX) is the program authorized under Decree for the Promotion of the Manufacturing, Maquiladora, and Export Services Industries –IMMEX published in the DOF on November 1, 2006;
- **XXXII. Maquila Program** (Programa 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;
- **XXXIII. PITEX Program (**Programa PITEX) is the program established under the Decree that established the Temporary Import Program to Produce Export Goods, published in the DOF on May 3, 1990, and its amendments;
- **XXXIV. PROSEC** is the Program authorized under the Decree that established the Sector-Specific Tariff Reduction Programs (PROSECs) published in the DOF on August 2, 2002 and its amendments;
- XXXV. Partial Zone of the State of Sonora (Región Parcial del Estado de Sonora) is the zone within the following boundaries: in the northern region, the international border line that runs from the current riverbed of the Rio Colorado up to the point located in that line 10 kilometers west of Sonoita, from this point, one straight line until the coast to a point located 10 kilometers east of Peñasco Point Port; from there following the riverbed of that river, running north until the international border line;
- **XXXVI.** Rule 2 (Regla 2) is rule 2 of the General Rules of item 1, article 2 of Mexico's LIGIE to interpret Mexico's HTS:

 $^{^3}$ Rule 8th allows importers to import merchandise under a particular tariff heading that has different rates than the corresponding Most-Favored Nation (MFN) rate.

- XXXVII. Rule 8th (Regla Octava) is the rule 8th 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;
- **XXXVIII. SAT Rules** (Reglas del SAT) are the Foreign Trade Rules and Annexes that Mexico's Tax Administration Service (SAT) issues annually;
- XXXIX. Rules to administer e-procedures (reglas para la gestión de trámites en medios electrónicos) refers to the Agreement that established the general rules to administer e-procedures before SE and its agencies, published in the DOF on April 19, 2005;
- **XL. RTFS** (Registro Federal de Trámites y Servicios) is the Registry for Federal Services and Procedures;
- XLI. RLCE (Reglamento de la Ley de Comercio Exterior) is Mexico's Foreign Trade Law Regulations;
- XLII. SAT (Servicio de Administración Tributaria) is Mexico's Tax Administration Service;
- XLIII. SE (Secretaría de Economía) is Mexico's Ministry of Economy;
- **XLIV. Sectors** (Sector) refers to those established in article 3 of the Sector-Specific Tariff Reduction Programs Decree, published in the DOF on August 2, 2002 and its amendments;
- XLV. SAAI (Sistema Automatizado Aduanero Integral) is the Automated Customs Integral System;
- XLVI. Tariff (Tarifa) is Mexico's Harmonized Tariff Schedule (HTS).
- 1.3 About the actions of the Ministry of Economy in foreign trade matters.
- **1.3.1** Foreign trade procedures before SE can be carried out in person at SE's headquarters or through electronic filing. In either case, all users must use the corresponding forms and applications for each procedure, all 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:
- Picture voting ID Card (Credencial para votar con foto);
- II. Professional practice ID Card (Cedula Profesional);
- III. Passport;
- IV. Picture Immigration Form (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 show as proof of residency, an original or a copy of the following documents:
- I. A utility bill no more than three months old;
- II. A bank statement no more than three months old;
- III. A valid lease or sub-lease agreement and photocopy of the most recent payment receipt;
- IV. Most recent pay stub; or
- V. 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.
- **1.3.5** In conformity with articles 62-69 of the LFPA, SE will verify the accuracy of the information provided and can also carry out inspection visits to the facilities of any Program holder. When companies are found in breach of their obligations, the corresponding penalties will apply.

1.4. About Public Information

- **1.4.1** In conformity with article 7, item XII of the LTAIPG, the following information regarding programs and mechanisms granted by SE will be published in the SE's webpage www.economia.gob.mx:
- I. Name of the beneficiary.
- **II.** Administrative Unit that authorizes the programs and mechanisms.
- **III.** Validity.
- IV. Tariff heading or tariff classification of the merchandise to be imported or exported.
- **1.4.2** In addition, the following information will be published when dealing with previous permits to which rule 2.2.1 refers to:
- I. Product Description.
- II. Volume.
- III. Date of delivery.
- IV. PROSEC Program number or IMMEX Program, for permits established in Annex 2.2.1, item III, of this Decree.
- 1.4.3 The public information that will be published regarding the IMMEX Programs for the textile and apparel sectors is the following:

- I. IMMEX Program modality.
- II. Number of employees.
- **III.** In that case, projection of the value of exports corresponding to the first six months after the lunching of operations.
- **IV.** In that case, name or commercial name of the companies that sub-manufacture and the number of employees that work in each one of them.

2. DUTIES AND FOREIGN TRADE NON TARIFF MEASURES AND RESTRICTIONS

2.1 General Provisions

- **2.1.1** For the purposes of articles 5, item 1 and 12 of the LCE, in the study, projection and proposed modifications to duties before the Executive branch, SE must carry out the following analysis:
- I. Analyze the effects of the measure, considering the following:
- a) Forecasted impact on overall prices, employment, competitiveness of the 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.
- c) Effects on market competition.
- d) Other factors deemed as relevant.
- II. To present and analyze statistical information that includes:
- a) Trade Data:
- i) Production, consumption, exports and imports trends by analyzed country.
- b) Domestic Data:
- i) Annual and monthly trends of exports and imports in both value and volume.
- ii) Production trends.
- iii) National consumption trends.
- **iv)** Imports and exports per country and per special import/export regime (e.g., definitive and temporary) of the current year.
- v) Effective protection analysis (Analisis de Proteccion Efectiva).
- vi) Import and/or export unit prices by country; of consumer or producer price indexes of the analyzed goods.

- vii) Employment statistics.
- viii) Market Structure.
- ix) Any other studies or statistical studies.

When there is no public available information that allows to carry out the analysis specified in rule 2.1.1, SE must provide and explanation of this situation.

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 when such regulation is no longer in effect prior to the date that the merchandise is presented to automated selection mechanism, it will not be necessary to proof that the company is in compliance with such regulation or non-tariff restriction.

2.2 Previous Permits and Automatic Notices

- **2.2.1** In conformity with articles 4, item III, 5, item V, 21 of the LCE and 17 to 25 of the RLCE, the merchandises classified under tariff headings in conformity with Annex 2.2.1 of this Decree are subject to previous import and previous export permit and automatic notices issued by SE.
- **2.2.2** For the purposes of article 18 of RLCE, the criteria and requirements to issue a previous import and export permits specified in rule 2.2.1, are detailed in Annex 2.2.2 of this Decree.
- **2.2.3** Imports under rule 8th to which Annex 2.2.1, article 2 of this Decree refer to, and that are authorized by SE in the corresponding previous permit can only be used to produce the goods established in the PROSEC Decree for the authorized sector.

For the purposes of rule 8th, it is understood that a company is registered as an approved manufacturer by SE when it has authorization to operate under the PROSEC Decree.

- **2.2.4** For the purposes of articles 18, 19 y 20 of the RLCE, previous import and/or export permits to which rule 2.2.1 refers to will be issued in conformity with following:
- I. At SE's local offices, the previous permits listed in Annex 2.2.2, item I, numeral 1, 2, and 5, item II, numeral 4, items a), b), c), d), e), f), g), h), i), k), I), m), n), ñ), o), p) q) and s), 9, 10 and 11, item IV, for the temporary import regime, item VI, numerals 6 and 7, and item VII, numeral 2.
- II. At DGIB, the previous permits listed in Annex 2.2.2, item I, numeral 3, item II, numeral 2, items c), d), e), j), when applicable, k), l), m), ñ), o), p), r), s), t) and v) and numeral 3, item c), d), e), j), when applicable, k), l), m), ñ), o), p), r), s), t), and v), item III, item V, numerals 1 and 2 and item VII, numeral 1.
- III. At DGIPAT, the previous permits listed in Annex 2.2.2, item I, numeral 4, item II, numerals 1, 2, items a), b), f), g), h) i), j), when applicable, n) and q), 3, items a), b), f), g), h), i), j), when applicable n) and q), 4, items j) and r), 5, 6, 7, and 8, and item VI, numerals 1, 2, 3, 4 and 5.
- IV. At DGCE, the previous permits listed in Annex 2.2.2, item IV, for the definitive import regime, and item VII, numeral 2 when a producer of Mexican cement requires for the exporting process a different port of exit from Mexican territory or of entry to the United States of America.

2.2.5 For the purposes of articles 22 and 23, second paragraph, of the RLCE, for merchandises listed in Annex 2.2.1, articles 1, 2, 6 and 7, item I, of this Decree, the country of origin or country of destination specified in the corresponding previous import or export permit will have an indicative character. Therefore, it will be valid even when the country specified in the previous permit is different from the originating or destination country, thus the holder of the corresponding previous permit will not have to modify the information included in the permit so that it is valid.

2.2.6 For the purposes of articles 18, 19 and 20 of the RLCE, the applications to obtain a previous import permit to which rule 2.2.1 of this Decree refers to, must be submitted at SE's front desks (ventanilla publica) in the terms specified in procedure (tramite) **SE-03-057** "Import Permit Issuance" under the corresponding modality, depending on the type of merchandise using format **SE-03-057** "Application for an import or export permit and modifications", by attaching the specific requirements, depending on the case, in conformity with Annex 2.2.2 and 2.2.7 of this Decree.

Interested parties must submit the applications for previous export permits to which rule 2.2.1 of this Decree refers to, at SE's front desks (ventanilla de atención al público) in its local offices in conformity with the requirements established in procedure RFTS **SE-03-058** "Application for export permit", using the form **SE-03-057** "Application for import or export permit and amendments," by attaching the specific requirements, in conformity with Annex 2.2.2 and 2.2.7 of this Decree.

Interested parties must submit the applications for amendment or extension of import or export permit, to which rule 2.2.1 of this Decree refers to, at SE's front desks in its local offices in conformity with the requirements established in procedure RFTS **SE-03-059** "Amendment to the import or export permit", and form **SE-03-060** "Extension of the import or export permit", using form **SE-03-057** "Application for import or export permit and amendments", by attaching the specific requirements, in conformity with Annex 2.2.2 and 2.2.7 of this Decree.

SE will issue a decision to which rule 2.2.6 refers to within 15 working days starting from the first working day that the application was submitted. If interested parties do not get a respond from SE, it will be understood that permit has been approved.

2.2.7 The information about the procedure and forms of the previous permits is available at SE's local offices, at COFEMER's web page www.cofemer.gob.mx and in Annex 2.2.7 of this Decree.

Procedure	Format
SE-03-057 "Issuance of import permits"	SE-03-057 "Application for import or export permit and amendments"
SE-03-058 "Issuance of export permits"	
SE-03-059 "Amendments to import or export permits"	
SE-03-060 "Extension of import or export permit"	

2.2.8 The previous import and previous export permit will be issued as an official document printed in white paper in conformity with the form included in Annex 2.2.8-A of this Decree.

When the procedure is carried out through electronic means, the import and export permits will be issued as a document in electronic form as included in Annex 2.2.8-B of this Decree, in conformity with the rules for the management of procedures through electronic means.

- **2.2.9** The import permit and the export permit must be signed either in writing or electronically in conformity with the rules for the management of procedures through electronic means, by the head of DGCE, SE's representative at the local office or the Director of Import and Export Permits, Certificates of Origin and ALADI Quotas of DGCE, accordingly.
- **2.2.10** When receiving the import or export permit, the interested party or legal representative must acknowledge receipt of the corresponding permit in writing.

When the procedure has been carried out through electronic means (internet), the interested party or the legal representative, must access the electronic board or electronic bureau of the SE at www.economia.gob.mx. By signing electronically, the interested party can access and check the electronic actions in conformity with the rules for the management of procedures through electronic means.

2.2.11 When the applications for import or export permits or applications for extensions or amendment do not have the required information or are found in non compliance with SE's requirements, SE will notify the interested parties in writing only once so that they correct the oversight in a period of no more than five working days as of the date in which the notification was received by the interested party. After that period if the oversight was not corrected, the procedure will be dismissed.

SE must issue the notification to which rule 2.2.11 refers to within the first 1/3 of the estimated time of response. If the notification is not delivered within this period, SE cannot deny the permit on the grounds that the application was incomplete.

- **2.2.12** The data of the authorized import and exports permits in conformity with rules 2.2.7 and 2.2.8 of this Decree as well as its amendments will be sent through electronic means to SAAI, so that permit holders can carry out the corresponding actions at any port of entry in Mexico.
- **2.2.13** The information about the procedure and the form of automatic notices is available at SE's local offices, COFEMER's web page www.cofemer.gob.mx and in Annex 2.3.13 of this Decree.

Procedure	Format
SE-03-073 "Automatic Export Notice"	SE-03-073 "Automatic import or export notice or new product document"

2.3 Quotas

2.3.1 For the purposes of article 26, item III of the RLCE, when merchandise enter into Mexico at a later date than the one specified in the quota authorization, the merchandise can be presented at the automated selection mechanism to carry out its importation, provided that the discharge of the quota is performed during the quota's validity period and the holder of the quota proves to the SE that the overdue arrival was

due to a fortuitous or unexpected event, and gives prior notice to customs authorities so that the merchandise is allowed to enter the country.

- **2.3.2** When the quota holder cannot not obtain the discharge of the imported merchandise by electronic signature during the validity period of the certificate due to reasons caused by the customs authorities, it will be understood that the operation is carried out during the validity period of the certificate.
- **2.3.3** For the purposes of article 23 of the LCE, the quota certificate must be in force by the date of payment of the official definitive import shipping document (pedimentos de importación definitiva) or removal of merchandises from the fiscal warehouse regime for definitive importation.
- **2.3.4** For the purposes of article 97 of the LA and article 33 of the RLCE, a new quota certificate would not be required when the intended merchandises have the purpose of replacing those merchandises definitively imported under the import quota but that resulted defective or with specifications different from the ones agreed to.

2.4 Mexican Official Norms (NOM)

- **2.4.1** For the purposes of articles 4, item III, 5, item III and 26 of the LCE, the merchandises subject to NOM's will be the ones included in the tariff headings of Mexico's HTS in conformity with Annex 2.4.1 of this Decree.
- **2.4.2** For the purposes of articles 53 and 96 of the LFMN, the country of origin field (pais de origen) in the document that certifies that the company is in compliance with the NOM will have an indicative character, therefore will remain valid even when the stated country in the document is different than the one declared in the official shipping document (pedimento). Therefore, the holder of that document will not have to modify the document for its validity.

2.5 Countervailing Duties (Cuotas Compensatorias)

- **2.5.1** For the purposes of articles 4, item III and 5, item III and VIII of the LCE, merchandises subject to countervailing duties and safeguard measures will be the ones included in the tariff headings of Mexico's HTS in conformity with Annex 2.5.1 of this Decree.
- **2.5.2** For the purposes of Temporary Article 6 of the Decree that Modifies, Adds, and Eliminates Various Provisions of the LA, published in the DOF on December 31, 2000, the merchandise entering Mexican territory under the regimes established in Temporary Article 6 will be subject to the corresponding antidumping duties in force, provided that the duties were put in place as a result of an antidumping investigation.

3. INSTRUMENTS AND PROMOTION PROGRAMS

3.1 General Provisions

3.1.1 For the purposes of articles 11, numeral I, item f), 24, item I and 25 of the IMMEX Decree and 5 and 7 of the ALTEX Decree, the holders of a program that produce intangible goods can submit an export official shipping document (pedimento de exportación) or the following documents:

- **I.** Annual Income Tax Statement for the previous fiscal year or in the event of not having such document, the financial statements signed by the legal representative.
- II. A list of invoices of the previous fiscal year or of the current period, containing the invoice number, date, description of the export merchandise and its value (in both dollars and pesos) signed by the legal representative.

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 24, item 1 and 25 of the IMMEX Decree and 10, items III and IV of the ECEX Decree, program holders, during the fiscal year in which the program is authorized, are not subject to comply with the export requirement. However, they must submit the report that corresponds to each program during that period.
- **3.1.3** For the purposes of articles 24, item 1 and 25 of the IMMEX Decree and 5 and 7 of the ALTEX Decree, program holders that carry out their operations with domestic raw materials or imported under the definitive importation regime 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.
- **3.1.4** For the purposes of articles 24, item 1 and 25 and transitory article four of the IMMEX Decree, 5 and 7 of the ALTEX Decree, 10, item III and IV of the ECEX Decree and 8 of the PROSEC Decree, program holders must present the annual report established in Annex 3.1.4 of this Decree, in conformity with its filling instructions.

3.2 Manufacturing, Maquiladora, and Export Services Industry (IMMEX)

- **3.2.1** The information about the procedures and forms of the previous permits is available at SE 's local offices at COFEMER's web page www.cofemer.gob.mx and in Annex 3.2.1 of this Decree.
- **3.2.2** For the purposes of article 2, item III of the IMMEX Decree, the disassembling, recovery of materials and remanufacturing operations will be understood as the industrial processes for the manufacturing and transformation of merchandises destined for export.
- **3.2.3** For the purposes of articles 2, item IV and 21 of the IMMEX Decree, submanufacturing operations also encompass the complementation of the capacity of production or services of the company with IMMEX Program; or to carry out export services that the company does not perform or for the manufacturing products that the company does not produce, directly related to the manufacturing operation of the company with Program.
- **3.2.4** For the purposes of articles 3, item III and 5, item III, of the IMMEX Decree, the activities that will be authorized under the services modality are the ones specified in Annex 3.2.4 of this Decree.
- **3.2.5** For the purposes of articles 3, item V and 23 of the IMMEX Decree, if the applicant does not have the facilities to perform productive processes, it will be understood that as a concession, SE will authorize the outsourcing (terciarizacion) modality to a company that, being a certified company, owns the facilities to carry out manufacturing operations.

3.2.6 For the purposes of article 4, Transitory Articles Third and Fourth of the IMMEX Decree, the authorizations, extensions, modifications, registries, and contents of a PITEX or Maquila Program are part of the IMMEX Program of the company, hence, its contents are in force within the authorized terms.

For the purposes of article 12, item II of the Maquila Decree, it is understood that merchandises were approved under a Maquila Program when those merchandises are included in the registry SICEX-Maquila to which the Notice that established the National Registry Codes for Maquila Export Industry published in the DOF on May 3, 2001 refers to, as well as the ones included in the prior Registry.

3.2.7 For the purposes of article 11, item I, numeral c) of the IMMEX Decree, the tariff heading to which article 4, item I of the IMMEX Decree refers to, which is authorized under an IMMEX Program encompasses the merchandises classified under this tariff heading, regardless of its description, and provided that they are destined for the export goods and the manufacturing operation programs authorized under the IMMEX Program.

In addition, for the purposes of article 11, item I, item I) of the IMMEX Decree, the commercial description authorized under an IMMEX Program encompasses the merchandises to which article 4, items II and III of the of the IMMEX Decree refers to, and that correspond to that description, regardless of their tariff heading classification.

- **3.2.8** For the purposes of articles 11, item I, numeral e) and 30 of the IMMEX Decree, the productive sector that interested parties must indicate in their application for manufacturing operations must be one of the sectors listed in Annex 3.2.8 of this Decree.
- **3.2.9** For the purposes of articles 2, item IV, 11, item III, numeral c), V and VI and 21, item II of the IMMEX Decree, can be located in the same business address:
- Two or more companies with an IMMEX Program, or
- **II.** One or more companies with an IMMEX Program, with other companies or persons that do not have that Program.

Provided that the companies own the building and the facilities are physically separated and independent.

- **3.2.10** For the purposes of article 11, item V of the IMMEX Decree, the prior verification visit to the Program's authorization, will seek to verify that the program applicant has the infrastructure to perform the corresponding productive processes. As a result of that visit the following will apply:
- When the applicant only has the facilities where the productive processes will take place, a program will be authorized with regards to the merchandises classified in article 4, items II and III of the IMMEX decree.
- II. When the applicant has the machinery and equipment for the productive processes, the merchandises established in article 4, item I of the IMMEX Decree will be authorized through an extension of the Program. To this end, SE will have to perform a new verification visit.
- **3.2.11** For the purposes of article11 of the IMMEX Decree, when SE approves an IMMEX Program, the Director of DGCE, the local SE representative or any other SE authorized official will sign the authorization

document in conformity with SE's Internal Regulations and any other applicable regulations, and it must include at least the following information:

- I. Business name of the IMMEX Program Holder;
- II. Fiscal Address where operations will take place;
- **III.** Federal Taxpayer's Registry (Registro Federal de Contribuyentes RFC);
- IV. IMMEX Program Number and modalities;
- V. Tariff heading classification or commercial description of the merchandises to be temporarily imported;
- VI. Tariff heading classification of the final product to be exported;
- VII. Name of the submanufacturing companies to which article 21 of the IMMEX Decree refers to, if applicable;
- VIII. Name of the companies that perform manufacturing operations under the Outsourcing (Terciarizacion) modality, if applicable,
- **IX.** The activities that could be perform under the services modality.
- **3.2.12** For the purposes of article 12 of the IMMEX Decree, an IMMEX Program will remain valid until SE cancels it for due to any of the reasons established in article 27 of the IMMEX Decree.
- **3.2.13** For the purposes of article 18 of the IMMEX Decree, the IMMEX program number assigned by SE to the companies that hold an IMMEX program is established as follows:
- I. The IMMEX acronym, which correspond to the IMMEX Program;
- II. Followed by a number of no more than 4 digits, which corresponds to the consecutive authorization number of the IMMEX Program at the national level, follow by a hyphen; and
- **III.** Four digits, which correspond to the year when the IMMEX Program was authorized.

Example: IMMEX 9999-2006

3.2.14 For the purposes of article 23 of the IMMEX Decree, the company under the outsourcing (terciarizacion) modality must register in its program those companies that perform manufacturing

operations no matter that those companies hold an IMMEX Program or perform submanufacturing export operations.

Companies registered in conformity with the stated in the above paragraph will be registered for the purposes of article 21 of the IMMEX Decree, thus, they will not have to register in the submanufacturing scheme.

- **3.2.15** For the purposes of articles 24, item I and 25 of the IMMEX Decree, the pre-operative period will not calculated when complying with the value or percentage of exportation. The pre-operative period will be the one to which article 38 of LISR refers to.
- **3.2.16** For the purposes of articles 25 and 29 of the IMMEX Decree, the verification visit to comply with the provisions established in article 11, item III of the IMMEX Decree, will be carried by SE in March of every year, after the submission of the annual report.

SE will publish in the DOF a list of IMMEX Programs that as a result of the verification visit do not comply with article 11, item III of the of the IMMEX Decree, so that companies are aware of this situation and work with the authorities to solve this issue.

- **3.2.17** For the purposes of article 27 of the IMMEX Decree, fist and fourth paragraphs, it is understood that SE will receive from SAT the required information in order to initiate process to cancel a program in conformity with the following:
- I. For the hypothetical situations foreseen in items VIII, X, and XI, when SE receives the final determination in which the IMMEX Program holder falls under these situations; and copy of the corresponding notification.
- II. For other hypothetical situations, when SE receives the determination that states the IMMEX Program holder falls under such situations; and copy of the corresponding notification.
- **3.2.18** For the purposes of articles 21, 24 and item VII, item b), 27, 29 and Transitory Article Five of the IMMEX Decree, companies to which SE assigned an IMMEX Program number in conformity with Transitory Article Five of the IMMEX Decree, must register the following no later than the first working day of January 2008:
- I. The addresses in which they carry out their operations under the IMMEX Program, through the submission of a letter in the terms established in procedure RFTS SE-03-076-G "Amendment to the Manufacturing, Maquiladora and Export Services Program (IMMEX)," modality "Change, addition, and elimination of fiscal addresses and facilities" by attaching a copy of the acknowledgement of receipt with digital stamp or receipt by the Federal Taxpayer's Registry.

II. Individual and "moral persons" (persona moral)⁴ that perform submanufacturing operations, through the submission of a letter in the terms established in procedure RFTS SE-03-076-B "Amendments to the Manufacturing, Maquiladora and Exports Services Industry (IMMEX)," modality "Registration of submanufacturing companies," by attaching proof of being enrolled at the Federal Taxpayer's Registry, which should correspond to the person that carries out the submanufacturing operations.

Regardless, the companies to which the above paragraph refers to, will be able to continue using the addresses and they will be able to continue to carry submanufacturing operations with individual or moral persons, provided that they had registered before SE, no later that the last working day of January 2008.

3.2.19 For the purposes of article 25, paragraphs fifth and sixth of the IMMEX Decree, companies with an IMMEX Program must submit to INEGI, the information that it determines in accordance to the LIEG, as follows:

I. Monthly, during the next 20 days of the corresponding month.

The information to which the above paragraph refers to must be submitted electronically at: http://www.inegi.gob.mx/

<u>prod serv/contenidos/espanol/captacion.asp?c=154&s=prod serv&e=#</u> or in hard copy at INEGI's local offices.

II. Yearly, during the next 30 days after receiving INEGI's notification.

3.3 About the specific requirements of the IMMEX Program

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

- I. A letter that specifies:
- 1. Information of the merchandise to be imported:
- a) Tariff heading and measure unit, in conformity with the Tariff, and
- **b)** Maximum amount to import per year and its value in US dollars.

- 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).

 $^{^4}$ Any reference to "moral persons" in Mexican law, including tax laws, include any one of the following companies:

- 2. Information of the final product to be exported, that will be manufactured with the merchandises stated in the above numeral (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 mach the commercial description specified in the commercial invoice, and
- **b)** Tariff heading and measure unit, in conformity with Mexico's HTS.
- II. A public registered accountant report that certifies 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 the industrial processes.
- c) The monthly installed production capacity to carry out the industrial processes, for an 8 hour shift, and
- d) The products that the company manufactures.
- III. For the merchandises listed in Annex II, item I of the IMMEX Decree, the company must also present documents that proof: (i) it is registered at the Federal Inspection System (TIF); (ii) its refrigeration or freezing capacity; and (iii) documentation that shows confirms that the company is authorized to import issued by the country to which the company is going to import the manufactured product.
- **3.3.2** For the purposes of article 5, item I of the IMMEX Decree, the decision issued by SE, by which it authorizes a sensible product extension to import under the IMMEX Decree, the merchandises listed 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 measure in conformity with Mexico's HTS that can be imported.
- **3.3.3** For the purposes of article 5, item I of the IMMEX Decree, to obtain a subsequent authorization for extension to import under the IMMEX Program the merchandises listed in Annex II of the IMMEX Decree, the petitioner must attached to the application of subsequent authorization of sensible product extension the following:
- I. The information specified in rule 3.3.1, item I numeral 1; and
- II. A report signed by the legal representative of the company that specifies:
- a) Volume of the merchandises imported under the previous authorization of the merchandises listed in Annex II of the IMMEX Decree.

- b) Volume of the products manufactured with the imported merchandises, specified in item a) stating the number and date of the official shipping return documents (pedimentos de retorno).
- c) Volume of the loss and waste corresponding to the industrial processes.
- d) Amount of each material, in measure unit, in conformity with Mexico's HTS used in the productive processes, indicating the percentage of waste.
- **3.3.4** For the purposes of article 5, item I of the IMMEX Decree, the authorization for subsequent extension to import under the IMMEX Program the merchandises listed in Annex II of the IMMEX Decree will be granted if the company has exported at least seventy percent of the volume, of the following items:
- I. The amount granted in the previous authorization, provided that it was fully used;
- II. The amount that results from adding previous authorizations issued in the past 12 months; or
- **III.** The actual amount imported, when the total amount granted in the previous authorization has not been fully used and its validity has expired.
- **3.3.5** For the purposes of rules 3.3.2., and, 3.3.3 of this Decree, the maximum amount that SE will authorize to import will be an amount equivalent to twelve months of installed production capacity, in conformity with the report to which rule 3.3.1, item II of this Decree refers to.
- **3.3.6** For the purposes of article 5, item I of the IMMEX Decree, the validity period of the authorizations for extension and subsequent extension to import under the IMMEX Program the merchandises listed in Annex II of the IMMEX Decree will be twelve months.
- **3.3.7** For the purposes of article 5, item I of the IMMEX Decree and rules 3.3.1 to 3.3.6, companies with an IMMEX program that export its entire production are exempt from compliance with these rules.

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

- **3.3.8** 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 that Annex, as follows:
- I.- The maximum import amount for the first six months of operation of an IMMEX Program, when it is the first time that the company requests the authorization to import those merchandises, will be the lesser amount that results from the following:
- a) The projection of the value of exports (in dollars) for the six months subsequent to the beginning of the 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 to say,

$$MMI \quad j = Min \quad \left\{X^e, N * \varphi\right\}$$

Where:

- MMI ^j = Maximum amount of imports in dollars that the company carries out (j) for the first six months of operations of the IMMEX Program when requesting the authorization for the first time.
- X e = Projection of the value of exports in dollars of the company for the next six months subsequent to the beginning of operations.
- N = Number of employees/workers, including, when applicable, the ones that carry out sub-manufacturing operations.
- φ = Factor of labor, semi-annual productivity equivalent to 22,007 dollars per worker.
- **II.-** For companies with an IMMEX Program, that have more that six months of operation importing the stated above merchandises, the maximum import amount would be equivalent to its maximum level of stock.

The maximum level of stock is equal to the value that results higher from the following items, plus 30 percent:

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

That is to say,

NMI_t^j = 1.30 * Max
$$\left\{ \frac{1}{6} \sum_{i=1}^{6} X_{t-i}^{j}, X_{t-i}^{j} \right\}$$

Where:

 NMI_{t}^{j} = Maximum Level of Stock of the company (j) in the month (t), in dollars.

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

- **3.3.9** For the purposes of rule 3.3.8, item I of this Decree, the following must be attached to the application for authorization or extension of the IMMEX Program.
- I.- A public registered accountant report that certifies the following:
- a) The location of the business address and the addresses where operations under the IMMEX Program are carried;
- b) The machinery and equipment to perform the industrial processes;
- **c)** The monthly installed production capacity to carry out the industrial processes, for an 8- hour shift, and
- d) The products that are manufactured.

- e) The number of employees of the IMMEX holder company, including, when applicable, 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 exports in dollars for the six months subsequent to the beginning of operations.
- **3.3.10** For the purposes of article 5, item II of the IMMEX Decree, the amounts to which rule 3.3.8 of this Decree refers to, can be extended through a request by the holder of an IMMEX Program. The interested party must present a letter before SE indicating:
- **I.-** For those companies specified in rule 3.3.8, item I, the arguments for its request, choosing one among the following ones:
- **a)** Exploitation of idle installed capacity, including, when applicable, of the companies that carry out sub-manufacturing operations, or
- **b)** Expansion of installed capacity or, when applicable, of each of the companies that carry out sub-manufacturing operations.
- **II.-** For the companies to which rule 3.3.8, item II refers to, the percentage of additional exploitation of idle capacity or expansion of installed capacity for the next 6 months.
- 3.3.11 The extension of the amounts to which rule 3.3.10 of this Decree refers to will be granted as follows:
- I.- For the assumptions established in rule 3.3.10, item I, it will be equivalent to the maximum monthly amount, in dollars, of exports carried from the beginning of operations multiplied by the number of months remaining to meet the six months of operations.
- **II.-** For the assumptions established in rule 3.3.10, item II, the expansion for each one of the six months subsequent to the authorization of the application, will be the value that results from what it is established in rule 3.3.8, item II for the corresponding month, multiplied by factor α which will be determined for each of the six months subsequent to the application, according to the following formula:

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

Where:

- α = Factor that must be multiplied by the amount that results from what it is established in rule 3.3.8, item II, for the corresponding month.
- β = Factor of extension or exploitation of installed capacity, in conformity with rule 3.3.10, item II.
- γ = Parameter whose value begins in six and ends in one, for each one of the six months subsequent to the authorization.

As of the seventh month subsequent to the extension, rule 3.3.8, item II will apply again.

3.4 Sector-Specific Tariff Reduction Programs (PROSECs)

- **3.4.1** The information about procedures and forms to which this chapter refers to is available at SE's local offices, COFEMER's web page www.cofemer.gob.mx and in Annex 3.4.1 of this Decree.
- **3.4.2** 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.
- **3.4.3** For the purposes of article 2, item III of the PROSEC Decree, "indirect suppliers of steel raw materials" include service centers with machinery and 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 steel products, provided that the service centers are registered under the program of the direct producer, which acquires the merchandise. In addition, it can provide services for technical adaptation to specific projects.
- 3.4.4 For the purposes of rule 3.4.2., indirect producers can choose from one of the following modalities:
- I. Indirect 8th Rule Producer, when it imports under tariff heading 9802.00.23 of Mexico's HTS to perform one of the processes stated in rule 3.4.3; if so, it can supply to direct producers the inputs of the sector registered under article 5 of the PROSEC Decree.
- **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 3.4.3; if so, it can supply direct producers that are registered in the same sector under which the goods are imported.
- **3.4.5** For the purposes or article 2, item II of the PROSEC Decree, the manufacturing of merchandises under the PROSEC Decree encompasses the disassembling, recovery of materials and remanufacturing.
- **3.4.6** For the purposes of article 2, item II of the PROSEC Decree and 3, item V of the IMMEX Decree, the manufacturing of merchandises under the IMMEX Decree encompasses all the operations that companies with an IMMEX Program carry out in the outsourcing (terciarizacion) modality through third parties that are registered in that Program.
- **3.4.7** For the purposes of articles 5 and 11 of the PROSEC Decree, merchandises can be declared before customs in one or several remittances or through one or several ports of entry, and apply the tariff rate established in the PROSEC Decree without violating rule 2., because the objective of the PROSEC Decree is to allow companies that this program to import regardless of the merchandises specified in article 5, depending of the corresponding sector, without establishing any quantitative or qualitative restrictions.
- **3.4.8** For the purposes of rule 8th, note 1 of section XXII, Special operations of the LIGIE, as well as articles 5 and 11 of the PROSEC Decree, merchandises can be declared before customs in one or several remittances or through one or more ports of entry, and apply the tariff rate established in the PROSEC Decree without violating rule 2., because according to note 1, the merchandises classified under special operations are exempt from the General Rules for the application and interpretation of Mexico's HTS.
- **3.4.9** For the purposes of articles 3, 4, and 5 of the PROSEC Decree, the following criteria is established:

- I. Producers that are registered in PROSEC for the Electronics Industry, item b), can import as of January 30, 2004, the goods listed in article 5 item II, item a) and b) of the PROSEC Decree.
- II. Producers that are registered in PROSEC for the Auto Transport industry, except for the automotive and auto parts sector, will continue to be registered in article 4 of that program, item a), provided that they continue to produce as of November 29, 2006, the goods specified in item a), without requiring specific authorization from SE, thus, they can continue to import the goods specified in article 5 item XV, item a) of the PROSEC Decree.
- III. Producers that as of November 29, 2007 are registered in PROSEC for the Auto Transport industry, except for the automotive and auto parts sector, item b), of article 4, will have the right to import the goods listed in article 5 item XV, item b) of the PROSEC Decree.
- **3.4.10** For the purposes of articles 3, 4 and 5 of the PROSEC Decree and 1, 3, 4, 7 and 9, item III of the Automotive Decree, a company will be considered as a manufacturing company under articles 3 and 4, item XIX, item a) of the PROSEC Decree, if it is registered as a manufacturer of light new automotive vehicles under the Automotive Decree, and when it manufactures vehicles that fall under article 3, item I of the Automotive Decree.

The companies to which the previous paragraph refers to, do not have to file an application to operate under the PROSEC Decree because they are considered manufacturing companies under the PROSEC Decree and SE will deliver them their PROSEC authorization and registry as manufacturers of light new automotive vehicles under the Automotive Decree.

- **3.4.11** SE will issue the authorization or extension of PROSEC through an official communication (oficio resolutivo) signed by the head of DGCE or SE's representative that includes the following information:
- Name and commercial name of the PROSEC holder, business address and federal taxpayer's registry (RFC);
- **II.** PROSEC number, type of program and sector(s);
- **III.** For those producers registered in the Sector-Specific Promotion Program X, diverse industries and indirect producers, the merchandises authorized to produce under the program, classified by tariff heading and if required,
- IV. The name and the federal taxpayer's registry (RFC) of all the indirect producers.
- **3.4.12** Local representatives and representatives of SE have the authority to approve, modify, cancel or register to operate under PROSEC, as well as the authority to apply any other applicable provisions on this matter that fall under the scope of SE. SE's representatives can sign the communications, resolutions, and any other document under their area of scope.
- **3.4.13** When receiving the PROSEC authorization or extension, the legal representative or applicant must acknowledge receipt of the official authorization or extension letter, which will be kept in SE's files.
- 3.5 Highly Exporting Companies (ALTEX)

- **3.5.1** The information about the procedures and forms of this chapter are available at SE's local offices, COFEMER's web page www.cofemer.gob.mx and in Annex 3.5.1 of this Decree.
- **3.5.2** To comply with the amounts to which article 5 refers to and the foreign trade operations report to which article 7 of the ALTEX Decree refers to, when a company holder of an ALTEX Program is merged with other(s), the exports of all of them will be considered.

3.6 Foreign Trade Companies (ECEX))

3.6.1 The information about the procedures and forms of this chapter is available at SE's local offices, COFEMER's web page www.cofemer.gob.mx and in Annex 3.6.1 of this Decree.

3.7 Draw-back

3.7.1 The information about the procedures and the forms of this chapter is available at SE's local offices, COFEMER's web page www.cofemer.gob.mx and in Annexes 3.7.1-A and 3.7.1-B of this Decree.

3.8 Other Provisions

- **3.8.1** For the purposes of article 116, item IV, and second paragraph of the LA, and for tariff headings 1701.11.01, 1701.11.02, 1701.11.03, 1701.12.01, 1701.12.02, 1701.12.03, 1701.99.01, 1701.99.02, 1701.99.99, 1806.10.01 and 2106.90.05 of Mexico's HTS, it is understood that SE has a favorable opinion in all the cases, therefore there is no need to request an opinion or any other document from SE.
- **3.8.2** Companies of the terminal automotive industry with authorization for customs warehouse for assembling and manufacturing of new vehicles can take advantage from the benefits under tariff headings 9803.00.01 and 9803.00.02 of Mexico's HTS.

For the purposes of the previous article, companies of the automotive industry are those companies that manufacture new light automotive vehicles and that have authorization from SE in conformity with the Automotive Decree and those manufacturing companies of new auto transport vehicles that have authorization from SE in conformity with article 4, item XIX, item a) of the PROSEC Decree.

ABOUT THE INTEGRAL SYSTEM OF FOREIGN TRADE DATA (SIICEX)

4.1 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.
- VI. Foreign Trade Statistics. Foreign trade statistical information and updated information on Mexico's HTS.

TRANSITORY ARTICLES

FIRST.- This Decree entered into effect on July 9, 2007, except for:

- I. Annex 2.2.7, which will enter into effect 15 working days after the date of publication of this Decree in the DOF, and
- II. Rules 3.3.8 to 3.3.11, which will enter into effect on July 16, 2007.

SECOND.- Starting July 1, 2007, the holders of resolutions, instruments and programs on foreign operations will be able to carry out their operations with regards to the merchandises authorized in their programs and instruments, using the corresponding tariff headings listed in the Correlation Charts TIGIE 2002-TIGIE 2007 published in the DOF on June 28, 2007.

The resolutions stated in the above paragraph will continue to remain in force up to the date indicated in the corresponding document and, when applicable, for the balance of the authorized amount, thus they can continue to be used for the purposes for which they were issued and can execute these authorizations before customs in conformity with the Correlation Charts TIGIE 2002-TIGIE 2007, therefore the holders of these authorizations will be exempted from carrying out any procedure before SE.

THIRD.- The following notices are abolished:

- I. Notice published by which SE Issues Foreign Trade Law Regulations, published in the DOF on July 21, 2006 and its corresponding amendments on January 4, March 8, and June 2, 2007.
- II. Notice that establishes the classification and codification of merchandises subject to the previous import permit and the previous export permit published in the DOF on November 9, 2005 and its amendments on December 20, 2005, March 29, October 2, and December 26, 2006 and March 29, 2007.
- III. Notice that establishes the criteria to issue previous permits for several merchandises, published in the DOF on May 31, 2006 and its amendments on April 6, 2007.
- IV. Notice that establishes the criteria to issue permits to import used vehicles for sectors that require them to develop certain productive activities, published in the DOF on February 24, 2005 and its amendments on March 31, 2006.

- V. Notice that establishes the criteria to issue previous import permits to companies located in the border and northern region strip that dismantle used vehicles, published in the DOF on August 26, 2003 and its amendments on September 22, 2003 and January 8, 2004.
- VI. Notice that establishes the criteria to issue previous import permits under the tariff subheading 98.02 of Mexico's HTS, published in the DOF on March 31, 2006 and its amendments on April 25, 2007.
- VII. Notice that abolished the intelligent SICEX card and where SE announced the import and export permits, and the application for an import and/or export permit and its amendments, published in the DOF on May 14, 2004.
- VIII. Notice that amends the decree that announces several provisions for PROSECs and the format to request authorization or extension of PROSEC published in the DOF on June 12, 2003 and its corresponding amendments on January 23, 2004.
- IX. Notice that announces several provisions related to the PITEX, Maquila and PROSEC programs, published in the DOF on December 19, 2005.
- X. Notice that identifies the tariff headings within Mexico's HTS that are subject to Mexican Official Norms (NOMs) when entering or exiting the country, published in the DOF on March 27, 2002, and its amendments on November 8, 2002, July 11, 2003, January 5 and April 15 2004, February 3, May 17 and October 26, 2005 and February 2 and May 3, 2006.
- XI. Notice that announces the tariff headings within Mexico's HTS that are subject to countervailing duties and safeguard measures published in the DOF on January 3, 2006.

The format "Application for import or export permit and amendments" specified in item VII of this article will remain valid at the appropriate administrative units for the next 15 working days as of the date of publication of this Decree in the DOF.

The previous import or export permits that were issued in security paper (papel seguridad) under the notice to which item VII of this article refers to, will remain valid until the date specified the permits, and can continue to be used for the purposes to which they were issued.

FOURTH.- The following forms are eliminated from the Notice that establishes the forms to carry out procedures before SE, the National Center of Metrology, the Mineral Resources Council, and Federal Consumers Agency, published in the DOF on March 22, 1999:

- I. Automatic Notices, published in the DOF on May 14, 2004.
- **II.** Manufacturing, Maquiladora, and Export Services Industries (IMMEX), published in the DOF on April 27, 2007.
- III. Highly Exporting Companies (ALTEX), published in the DOF on March 22, 2002.
- IV. Foreign Trade Companies (ECEX), published in the DOF on December 10, 2004.
- VI. Draw-back, published in the DOF on March 22 and March 4, 2003.

FIVE.- Starting the fifth working day after the date of entry into force of this Decree, the import and export permits specified in rules 2.2.1 and 2.2.12 of this Decree will be issued in white paper. The usage of security paper is eliminated.

SIX.- For purposes of Annex 2.2.2, item II of this Decree, numeral 11.1, code SECOFI-03-018 of sole Annex of the Notice that establishes the procedures registered at RFTS that apply the Ministry of Trade and Industrial Promotion, published on November 27, 2000 in the DOF will no longer be applicable.

SEVEN.- For companies in the textile sector, in accordance to Annex 3.2.8 of this Decree that as of the date of entry into force of this Decree have only six months of operations importing the merchandises listed in Annex III of the IMMEX Decree, and fall under rule 3.3.8, item II of this Decree, the maximum monthly amount of stock to which article 5, item II refers to, will be the equivalent to the monthly average of imports and will enter into force on July 16, 2007.

OCTAVO.- For purposes of rule 3.1.4 of this Decree and in conformity with transitory article 5 of the IMMEX Decree, the timeframe to file the annual report to which rule 3.1.4 refers to, will be the last working day of September 2007.

For the purposes of the above paragraph, the benefits to temporarily import the merchandise under the IMMEX Program to which article 25, second paragraph of the IMMEX Decree refers to, will be October 1, 2007. The date for cancellation to which such paragraph refers to will be December 3, 2007.

NINE.- For the purposes of transitory article five of the IMMEX Decree, the timeframe for SE to assign IMMEX Program number will be the last working day of September 2007. Companies with Maquila or PITEX program operations can continue to use their current key, but they will no longer be valid as of on October 1, 2007.

TEN.- For the purposes of goods under the PROSEC Decree in force since June 30, 2007, and that are not listed in article 5 of that Decree in conformity with the Decree that amends several duties of Mexico's HTS, the Decree that establishes various Sector-Specific Tariff Reduction Programs (PROSECs), and the notices that establish the border and northern region strip import scheme, published in the DOF on June 30, 2007, SE can authorize the importation of these merchandise through the issuance of previous import permits under rule 8th, as specified in Annex 2.2.1, article 2, of this Decree as a temporary measure while SE makes the necessary modifications to the PROSEC Decree. SE can use Correlation Chart TIGIE 2002-TIGIE 2007 published in the DOF on June 28, 2007 or any other instrument that company deems as relevant.

ELEVEN.- So that importers can make use of the options established in article 6 of Annex 2.4.2 of this Decree, SE's General Directorate of Mexican Official Norms (NOMs) will periodically publish the list of custom warehouses and the verification units authorized to comply with Mexican official NOMs and its corresponding updates.

TWELVE.- The date in which companies can begin carry out the procedures to which rule 2.2.10, second paragraph of this Decree refers to will be announced by SE in the DOF in the coming weeks.