



# DOING BUSINESS *IN MEXICO*

2020

**VTZ**

VAZQUEZ TERCERO & ZEPEDA  
ABOGADOS



# INTERNATIONAL TRADE POLICY INTRODUCTION

As a result of Mexico's Trade and Investment Promotion Agency -PROMEXICO– extinguishment, **Vázquez Tercero & Zepeda (VTZ)** seeks to fill that void and promote Mexico as a business destination.

This is why **VTZ** has developed the guide **Doing Business in Mexico 2020**, which is divided into the following seven chapters:

1. *Why Invest in Mexico?*
2. *Foreign Investment.*
3. *International Trade Policy.*
4. *Trade Policy for the Manufacturing Industry.*
5. *Creating a Company in Mexico.*
6. *Taxation.*
7. *Labor & Migration.*

In line with our values, our chapters seek to provide relevant business and legal information in an honest, practical, and concise manner. This chapter, *International Trade Policy*, will provide a general overview of Mexican Trade Policy considering international context, as well as customs aspects.

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# INTERNATIONAL TRADE POLICY

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<b>3. Mexican Trade Policy and Customs</b>	<b>1</b>
<b>3.1 Tariff Policy</b>	<b>1</b>
3.1.1 MFN Tariffs or Duties	1
3.1.2 Preferential tariffs in Free Trade Agreements	3
3.1.2.1 CPTPP	4
3.1.2.2 USMCA	4
3.1.2.3 New EU-Mexico Agreement	5
3.1.3 Duty Deferral, Drawback and Preferential Tariffs in Trade Instruments	5
3.1.3.1 IMMEX	6
3.1.3.2 Trade Promotion Instruments	6
3.1.3.2.1 PROSEC	7
3.1.3.2.2 Eight Rule	8
3.1.3.2.3 Free Trade Zones in Mexico	9
3.1.4 Other charges affecting imports	9
3.1.4.1 Customs Processing Fee (DTA)	10
3.1.4.2 Value Added Tax (VAT)	10
3.1.4.3 The Special Tax on Production and Services (IEPS)	10
3.1.4.4 The Tax on New Motor Vehicles (ISAN)	11
<b>3.2 Non-Tariff Barriers</b>	<b>12</b>
3.2.1 Import Prohibitions	12
3.2.2 Licensing System	12
3.2.3 Other Non-Tariff Barriers on Imports	14
3.2.4 Import Quotas	14
3.2.5 Exports Tariff & Non-Tariff Export Barriers	14
<b>3.3 Recent Changes to Mexican Trade Policy</b>	<b>16</b>
<b>3.4 Customs</b>	<b>16</b>
3.4.1 Customs Brokers and Customs Agencies	17
3.4.2 Single Customs Window	17
3.4.3 Requirements to Import and Export in Mexico	18
3.4.3.1 Special International Trade Registries	19



# INTERNATIONAL TRADE POLICY

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## 3. Mexican Trade Policy and Customs

As a member of international organizations and Free Trade Agreements, Mexico has, to a certain extent, a predictable trade and customs policy. Mexican laws on customs and trade are normally compatible with international rules. The President and his ministers are not only in charge to apply these laws, but they also have powers to regulate international trade and customs, including emergency actions.

Since the inception of the [World Trade Organization](#) and the North American Free Trade Agreement, Mexico's trade and customs legal framework has not been subject to a substantial overhaul; seldom reforms particularly to the customs law have occurred from time to time.

However, Mexico is currently embracing modern free trade agreements, such as the Comprehensive and Progressive Transpacific Partnership (CPTPP) or USMCA, that have and will bring certain legal changes in intellectual property, de minimis, e-commerce, etc.

Needless to say, trade and customs programs or regulations are subject to frequent changes that seek to adapt to new trends, risks, or policy objectives. Mexico has in place, for instance, duty deferral and tariff reduction programs that allow manufacturing or export oriented industries to be more competitive. However, such programs are subject to strict government controls.

### 3.1 Tariff Policy

Mexico is a party to the [World Customs Organization](#) and to the International Convention on the Harmonized Commodity Description and Coding System (HS Convention).

As a result of the sixth amendment to the HS, Mexican congress discussed a new law that replaced its General Import and Export Tariff Act (LIGIE, acronym in Spanish), i.e. Mexico's Harmonized Tariff Schedule. The Ministry of Economy conducted an exhaustive review and proposed to compact or unfold tariff items for statistical purposes into 10 digits that will be called Commercial Identification Number, instead of an 8 digit tariff item (known as *fracción arancelaria*). The new General Import and Export Tariff Act was published on July 1, 2020.

#### 3.1.1 MFN Tariffs or Duties

Mexico's average WTO bound tariff is 35%, and duties rates vary from 0% to 100%. According to Mexico's most recent Trade Policy Review (2017), the average MFN tariff on agricultural and non-agricultural products was 14.3% and 4.6%, respectively. The General Import and Export Tariff Act establishes the import tariff or "General Import Tax" (*Impuesto General de Importación, or IGI*) as well as the export tariff "General Export Tax" (*Impuesto General de Exportación, or IGE*).

# INTERNATIONAL TRADE POLICY

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If the goods are categorized, Mexico's MFN tariff (or *IGI*) profile may look as follows:

Product Groups	MFN applied duties			Imports	
	AVG	Duty-free in %	Max	Share in %	Duty free in %
Animal	16.7	13.3	75	1.1	2.1
Dairy	23.3	3.1	45	0.4	12.6
Fruit, vegetables, plants	16.0	5.2	75	0.6	5.2
Coffee, tea	20.4	20.8	45	0.2	34.2
Cereals & preparations	9.5	28.8	45	1.8	61.4
Oilseeds, fats & Oils	7.2	41.9	45	1.2	68.7
Sugars and confectionery	31.0	0	75	0.2	0
Beverages & tobacco	27.8	2.6	67	0.3	15.4
Cotton	0.0	100.0	0	0.1	100.0
Other agricultural products	6.6	48.9	36	0.6	68.4
Fish & Fish products	14.0	9.6	20	0.2	23.1
Minerals & metals	3.6	70.7	15	12.7	75.1
Petroleum	0.0	98.5	3	6.1	98.0
Chemicals	2.3	72.0	26	11.9	51.9
Wood, paper, etc.	4.5	50.6	20	2.9	63.3
Textiles	9.8	11.3	25	2.3	24.5
Clothing	21.3	0	25	0.8	0
Leather, footwear, etc.	6.1	62.2	50	2.3	61.0
Non-electrical machinery	2.8	77.7	20	17.6	89.5
Electrical machinery	3.5	69.4	20	20.6	81.2
Transport equipment	8.5	45.7	50	10.6	43.6
Manufactures	5.1	57.4	20	5.5	72.6

Source: [https://www.wto.org/english/res\\_e/statis\\_e/daily\\_update\\_e/tariff\\_profiles/MX\\_E.pdf](https://www.wto.org/english/res_e/statis_e/daily_update_e/tariff_profiles/MX_E.pdf)

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## 3.1.2 Preferential tariffs in Free Trade Agreements

Mexico has an extensive network of Free Trade Agreements (FTAs) with 50 countries and is also a party to regional agreements within the framework of the Latin American Integration Association (ALADI).



The **main FTAs** and **trade agreements** to which Mexico is currently a party are as follows:

- United States–Mexico–Canada Agreement (USMCA).
- European Union-Mexico Free Trade Agreement, which is in the process of being modernized.
- Comprehensive and Progressive Transpacific Partnership (CPTPP) in force between Australia, Canada, Japan, Mexico, New Zealand, Singapore and Vietnam; Brunei, Chile, Malaysia, and Peru have not yet ratified the FTA.
- Pacific Alliance with Colombia, Chile and Peru.
- FTA with Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua.
- FTA with the European Free Trade Association (Iceland, Liechtenstein, Norway and Switzerland).
- FTA with Israel.
- FTA with Uruguay.
- FTA with Japan.

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## 3.1.2.1 CPTPP

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which represents 15% of global trade, entered into force on 30 December 2018 between six of the 11 signing parties, namely Australia, Canada, Japan, Mexico, New Zealand, and Singapore. The agreement entered into force with Vietnam on 14 January 2019. Brunei, Chile, Peru, and Malaysia have not yet concluded their domestic ratification procedures.

Mexico eliminated import duties on **77%** of its tariff items on entry into force. The tariff reduction schedule started to apply in 2018 between Mexico and the original five CPTPP parties and started in 2019 as regards Vietnam.

### ***What will happen with the FTAs with other CPTPP parties?***

As perhaps you may have noticed, Mexico also has “parallel” FTAs with other CPTPP parties, for instance, Japan-Mexico FTA, Canada in the USMCA, Peru and Chile in the Pacific Alliance, and one perhaps may wonder whether these FTA may co-exist in the “spaghetti bowl” of international trade? *The answer is: **Yes**.*

According to article 1.2 (1)(b) CPTPP, the rights and obligations resulting from other existing international agreements, say USMCA, between Canada and Mexico coexist with CPTPP with respect to such parties. In this sense, economic agents may either choose to apply the CPTPP or, for instance, the Japan-Mexico FTA, which by the way turned 15 years on April 1st, 2020.

## 3.1.2.2 USMCA

The USMCA entered into force in July 1st, 2020, replacing NAFTA. USMCA introduces new rules that will affect trade in areas, such as the *auto industry, remanufacturing, rules of origin, intellectual property, de minimis importations, e-commerce*, among others.

Needless to say, the original agreement was modified by a protocol, signed on 10 December 2019. The protocol modified the rules of origin in the automotive sector, eliminated intellectual property provisions, introduced enforcement mechanisms in labor and environmental matters, and improved the establishment of panels for the dispute settlement mechanism.

Notably, the labor enforcement mechanism includes a unique and innovative facility-specific rapid-response labor mechanism (RRLM) that is applicable either between the US and Mexico or Canada and Mexico.

The RRLM’s purpose is to address and remediate the denial of labor rights (i.e. freedom of association and collective bargaining rights) in a specific facility that falls in an economic “priority” sector. If the denial of rights is not remedied, remediation measures can be imposed against the goods or services of a facility. For more information, click [here](#).

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### 3.1.2.3 New EU-Mexico Agreement

After two years of having reached an agreement in principle, Mexico and the European Union have concluded the negotiation process regarding the modernization of their Free Trade Agreement on April 2020. To access the text of the agreement, click [here](#).

The *Public Procurement Chapter* was preventing the conclusion of the negotiations of the modernization of this FTA. The European Union had the interest to access tenders at the sub-federal (or state) level in Mexico. In the end, 17 Mexican states are included in Mexico's commitment to international best practices in procurement matters. This is Mexico's first time to negotiated public procurement at the sub-federal level in its history.

With this new modernization or agreement, Mexico and the EU will fully liberalize trade since agri-food products were originally excluded from the trade agreement that is currently in force.



### 3.1.3 Duty Deferral, Drawback and Preferential Tariffs in Trade Instruments

Long before NAFTA came into existence, Mexico had into effect duty deferral policies that allowed manufacturing companies, known as *maquiladoras*, to import goods, such as raw materials, parts, containers, etc., without paying import duties. The maquiladoras had to use said imported goods in the production of exported manufactured goods and, in turn, they could temporally import said goods and defer customs duties.

Eventually, NAFTA introduced drawback provisions to promote the use of regional goods and "to reduce the incentive for third countries to use a NAFTA country as an 'export platform.'" Article 303 NAFTA, replicated in article 2.5 USMCA, introduced a general prohibition on refunding or exempting customs duties owed on non-originating goods imported into the territory of a party.

In essence, these provisions have as a purpose to avoid *double 'taxation'* on non-originating materials that are used as an input in the production of a finished good subsequently exported to another NAFTA or USMCA party.

# INTERNATIONAL TRADE POLICY

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When the manufactured product is exported to another NAFTA or USMCA party, the exporting NAFTA or USMCA party, say Mexico, is obliged to consider that the used non-originating materials were destined for domestic consumption; and, thus, Mexico should collect the import duties that are applicable to the non-originating materials.<sup>1</sup>

These rules were, of course, crafted to prevent Mexico from becoming a 'back door' for non-NAFTA materials to the US market and avoid double taxation.

However, Mexican policy makers were creative enough to draft the following trade promotion instruments that made it possible to circumvent article 303 NAFTA, today **article 2.5 USMCA**. Hereon, we will stop referring to NAFTA and we will refer to US, Canada or Mexico as a USMCA party, since the USMCA substituted NAFTA in July 1st, 2020.

### 3.1.3.1 IMMEX

Today, maquiladoras generally operate under the IMMEX program. This program allows firms to import the inputs or machinery under the temporal import customs regime. This customs regime allows to differ customs duties provided that the manufactured or assembled goods are exported, among other conditions. When exporting the manufactured products to another USMCA party, the IMMEX companies would have to pay the resulting imports duties applicable to the non-USMCA materials.

Companies under the IMMEX program may benefit from tax incentives and access to other tax and customs facilitation measures. Nevertheless, IMMEX companies are subject to complex controls, reporting, and a permanent surveillance on behalf of Mexican Tax authorities. For further information on the IMMEX program visit **Chapter 4- Policy for the Manufacturing Industry**.

### 3.1.3.2 Trade Promotion Instruments

In order to circumvent article 303 NAFTA, the Mexican Ministry of Economy designed trade promotion instruments. Today, IMMEX companies are eligible to access the **Sectoral Promotion Programs** (*PROSEC* acronym in Spanish) and the **Eight Rule** (*Regla Octava*). These trade instruments allow companies to import inputs and machinery at preferential tariffs rates, ranging from 0% to 5%, for the purposes of manufacturing specific goods.

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<sup>1</sup> This is a summarized explanation of the provision. The rule also provides that the importing USMCA party, say the US, may collect the import duties of the non-originating materials that were used in the production of the exported good, provided that the duties were not paid in the exporting USMCA party, say Mexico.

# INTERNATIONAL TRADE POLICY

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For the purposes of clarity, an IMMEX company may still have to apply article 2.5 USMCA. An outstanding customs duty balance may result because the preferential tariff rate is, for instance, 1%. Nevertheless, a significant number of IMMEX companies or maquiladoras are able not only to export finished goods that qualify as originating under USMCA, but they can also benefit from an even lower customs-tax environment.

## 3.1.3.2.1 PROSEC

The Sectoral Promotion Programs (PROSEC) allows the registered companies to import inputs and machinery at a preferential tariff for manufacturing specific goods, irrespective of whether the final good is consumed on the domestic market or exported. Originally created in 2002 with the purpose of “bolstering competitiveness”, PROSEC has the following 23 economic sectors or “sectoral program”:

1. Food and Sugar
2. Coffee
3. Chocolates, confectionery and the like
4. Mining and metallurgy
5. Chemicals
6. Pharmaceutical products, medicines, and medical equipment
7. Photography
8. Rubber and plastic articles
9. Leather and hides and skins
10. Wood
11. Paper and paper board
12. Textiles and clothing
13. Footwear
14. Iron and steel
15. Agricultural machinery
16. Electricity
17. Electronics
18. Automobiles and spare parts
19. Transportation, except the automotive and spare parts sectors
20. Toys and sports articles
21. Furniture
22. Miscellaneous industries
23. Capital goods

Each sectoral program lists the final goods that fall under the sector, as well as the inputs that are need to produce the final goods by tariff item and their preferential tariff. Hence, a registered company will only be able to benefit from the preferential tariffs applicable to the inputs of its sectoral program(s) or manufacturing activities. In other words, “the incentive provided is only granted if the inputs are used in the sector or sectors specified in the PROSEC.”<sup>2</sup>

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<sup>2</sup> Trade Policy Review: Mexico, WT/TPR/S/352 Para 3.140 (February 15, 2017).

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According to Mexico's most recent trade policy review, the most common preferential PROSEC tariff rates were 0% and 5% in 2016, which applied to 75% and 19% of the tariff lines, respectively.

### 3.1.3.2.2 *Eight Rule*

The "**Eighth Rule**" consists of a license, issued by the Ministry of Economy, that allows an authorized company to use tariff items from Mexico's HS heading 98 "special operations." The authorized companies may import machinery, equipment, materials, inputs, parts, and components at preferential tariff rates per the Ministry of Economy authorization.

Companies that seek to benefit from the Eight Rule must have their "**manufacturing company certificate**" that consists of its PROSEC registration. In other words, the company must have its PROSEC registration in order to access the preferential tariffs of the **Eight Rule** for its definitive imports. If the company will make temporary imports with the benefits of the **Eighth Rule**, the company must have the PROSEC and IMMEX program. Moreover, the authorized company must use the imported inputs or machinery under the *eight rule* for the production of the goods under its PROSEC sector.



Perhaps it is unclear why should a company that benefits from PROSEC should also apply for the **Eight Rule** license. About 25% of PROSEC's preferential tariff rates range from 2.5% to 10%, meanwhile the Eight Rule's benefit are duty-free import rates.

# INTERNATIONAL TRADE POLICY

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## 3.2.3.2.3 Free Trade Zones in Mexico

Mexico does not have free trade zones as such. However, the “strategic in-bond facility” (SIBF or *Recinto Fiscalizado Estratégico*) is normally confused as a “Free Trade Zone”. There are more than 20 SIBF in Mexico. The following map shows the SIBF of the federal entities of Mexico<sup>3</sup>.



In essence, a third party is responsible of managing, supervising, and controlling the SIBF. The SIBF's facilities have to be within the vicinity<sup>4</sup> or next to the Mexican Customs Authority (SAT, acronym in Spanish). In order to carry out activities within FTZ's facilities, the interested party will have to submit an application before SAT and, of course, negotiate and have an agreement with the manager of the in-bond facility. If authorized, the interested party will benefit from duty deferral, among other customs facilitation measures.

## 3.1.4 Other charges affecting imports

Imported goods may be subject to various internal charges or taxes such as a customs processing fee (*derecho de trámite aduanero* or DTA), value added tax (VAT), the special tax on production and services (IEPS), or the tax on new motor vehicles (ISAN).

<sup>3</sup> Annex 22, Appendix 21 of the International Trade Rules for 2020. For more information:  
[http://omawww.sat.gob.mx/rfe/Paginas/04\\_sumate.htm](http://omawww.sat.gob.mx/rfe/Paginas/04_sumate.htm)

<sup>4</sup> [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5415542&fecha=17/11/2015](https://www.dof.gob.mx/nota_detalle.php?codigo=5415542&fecha=17/11/2015).

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### 3.1.4.1 Customs Processing Fee (DTA)

The customs processing fee (*DTA*) applies to imports due to the use of customs services and facilities. Generally, the rate of the *DTA* is 0.008% of the declared value of the goods. Under Free Trade Agreements, such as USMCA, EUMXFTA, among others, Mexico has agreed to apply specific *DTA* rates or exemptions.

A portion of the *DTA* is used for the modernization of customs facilities and infrastructure.

### 3.1.4.2 Value Added Tax (VAT)

Imports are normally subject to a 16% VAT, particularly definitive imports, while exports are not subject to VAT<sup>5</sup>. Although temporal imports are also subject to VAT in theory, IMMEX companies may access a certification that allows to defer (avoid) paying VAT, either with a credit or a bond, provided that the goods are exported. Other customs regimes, such as the introduction of goods into an in-bond facility (*depósito fiscal*), are not considered as an import and, thus, VAT payment is not required.

### 3.1.4.3 The Special Tax on Production and Services (IEPS)

Like VAT, the special tax on production and services (*IEPS*) is an indirect tax applicable to the importation of specific products and services, including to goods subject to the temporary importation regime. *IEPS* tax varies per product or service and is expressed in rates or ad valorem, specific or a compound, that vary. In 2020, rates were adjusted to reflect inflation.

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<sup>5</sup> Personal luggage and household effects, donated goods and works of art.

# INTERNATIONAL TRADE POLICY

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Non-Exhaustive List of Products Subject to IEPS	Applicable Rate
Alcoholic beverages and beer	26.5%, 30% or 53%, according to the alcohol content.
Cigarettes	160% + \$0.49 Mx peso per cigarette.
Cigars and other worked tobacco	160%; 30.4% if hand made.
Gasoline (petrol), below 92 octanes Gasoline (petrol), 92 octane or higher Diesel Non-fossil motor vehicle fuels	The specific rate is updated each month by a Ministry of Treasure Decision published in the Official Journal.
Energy drinks and syrups and concentrates for the preparation thereof	25%; 25% + \$1.2616 Mx peso per liter when containing added sugar (see below)
Flavored drinks and syrups and concentrates for the preparation thereof, containing added sugar	1.2616 Mx peso per liter *Exception of: <i>those with a health registration (cough syrups, oral serums); those with a high nutritional value (milk); or those prepared in bars or restaurants (considered a service).</i>
High-calorie non-staple foods ( $\geq 275$ kcal/100 grams)	8%

Source: [https://www.wto.org/english/tratop\\_e/tpr\\_e/s352\\_e.pdf](https://www.wto.org/english/tratop_e/tpr_e/s352_e.pdf)

### 3.1.4.4 The Tax on New Motor Vehicles (ISAN)

New vehicles are subject to the ISAN, which is a compound tax with an ad valorem component and a specific component. For vehicles bought in the country, the tax is calculated on the sales price of the vehicle to the final consumer. In the case of imports, the tax is calculated based on the customs value plus import duty and other import-related duties, excluding VAT (art. 2 ISAN Law).

Mexico, in fact, has a tax incentive that promotes the purchase of automobiles under a certain value. Electric motor vehicle are exempt from the ISAN in order to promote “eco” friendly means of transportation (art. 8 ISAN Law).

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## 3.2 Non-Tariff Barriers

The Constitution, International Trade Law and its regulation are the legal basis for non-tariff barriers in Mexico. The Executive, through the Ministry of Economy in conjunction with other Ministries, if relevant, establishes non-tariff barrier measures that have to be published in the Official Journal; the President has the powers to establish emergency international trade measures on goods, the most recent emergency measure was an import and export prohibition on electronic cigarettes or vapers, and their components. In other words, if non-tariff regulations are not published in the Official Journal and/or the tariff items are not included in the decision, such non-tariff barrier is not mandatory to a given product.

Mexico applies the following import restrictions:

- Prohibitions
- Automatic import licences.
- Non-automatic import licences (prior import permits).
- Import quotas.
- Non-tariff regulations.

Before importing a product into Mexico, firms must check the applicable tariff as well as whether the goods are subject to specific regulations under the relevant tariff items.

### 3.2.1 Import Prohibitions

In the latest Trade Policy Review in 2017, Mexico reported that 22 products, in particular chemicals and drugs, are prohibited.

Mexico has introduced new prohibitions since 2017. Mexico prohibited specific chemical products per the Stockholm Convention on Persistent Organic Pollutants on the 6th of November 2019. As noted above, Mexico also prohibited electronic cigarettes and/or vapers as well as their parts on the 19th of February 2020.

### 3.2.2 Licensing System

Mexico has in place an import licensing system that consists of prior import permits and automatic import notification. Per the International Trade Law, Mexico identifies the goods per their HS-Code that are subject to the licensing requirements in the decisions or decrees published in the Official Journal.

On the one hand, automatic licensing (automatic notification) is used to keep a record of imports and, in theory, the license should be issued immediately. The following category of products are subject to automatic licences:

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- iron products (e.g. welded steel pipes, cold rolled steel, steel plate, etc.),
- slot machines,
- textiles; and
- footwear.

When applying for an *automatic license*, the importer must submit specific information such as the value, quantity, tariff line, country of origin, exporting country, as well as supporting documentation. For instance, importers of iron product must submit mill certificates on iron products. Depending on the category of the product, licenses' period of validity ranges from 60 days to four months and are non-transferable. The customs authorities may authorize one or more automatic extensions of the validity of the original import license, save for iron products. On the other hand, *prior import permits* do not have as a purpose to restrict the quantity or value of the imports, rather they are used to protect health, environment, security, as well as sanitary and phytosanitary purposes. The following table registers the different types of licenses and the Ministries in charge of issuing them.

Ministry	License
Ministry of Economy	Conventional Arms and Dual-Use Goods and Technologies (including Software) as included in the Wassenaar Agreement, Australia Group, GSN lists.
Ministry of Health (through the Federal Commission for the Protection Against Sanitary Risks)	Essential chemicals; Products for human consumption; finished products and raw materials for medicaments pharma-chemicals; narcotics and psychotropic substances; products for the diagnosis, treatment or rehabilitation of illnesses in humans; chemical substances; and tobacco and cigarettes.
Ministry of the Environment	Species listed in the CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) appendices; forestry products and by-products; toxic or hazardous substances or materials.
Ministry of National Defense	Arms, ammunition, gunpowder, explosives, fireworks, and chemical substances related to explosives.
Ministry of Agriculture and Fisheries (through the National Service of Food Safety and Quality)	Agricultural products and aquatic species.
Ministry of Energy	Hydrocarbons and petroleum products; Nuclear materials and fuels, radioactive materials, and equipment that generates ionizing radiation.

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## 3.2.3 Other Non-Tariff Barriers on Imports

### **Technical Standards & SPS measures**

A wide variety of imports are subject to technical regulations on product-information requirements, labeling, safety, characteristics. Mexico's technical regulations apply to import and domestic products are commonly known as *NOMs (Norma Oficial Mexicana)*. Other imports may be subject to sanitary and phytosanitary and safety standards.

### **Intellectual Property Restrictions**

For certain types of trademarked products, the importer must now prove that it is the owner or licensee of the trademark.

### **Price Estimates restrictions**

Another notable non-tariff barrier is the "price-estimates" that apply to used vehicles, certain textiles, apparel, and footwear products in Mexico.

The Ministry of Treasury provides the minimum price or value of said goods, and it is used "as a reference for the customs valuation..." in order to avoid undervaluation and tax evasion<sup>6</sup>. If the value of the good imported is below the estimated or minimum price, the importer will have to provide a security deposit securing the payment of the import duties per the estimated or minimum price.

## 3.2.4 Import Quotas

Certain products are subject to import quotas, such as certain agricultural products (e.g. beans, coffee, barley and poultry meat) and manufactures (including polyester filament, motor vehicles and toys).

## 3.2.5 Exports Tariff & Non-Tariff Export Barriers

A couple of export tariffs exist (e.g. bitumen, asphalt, and bituminous mixtures) and few non-tariff barriers on exports are applicable in Mexico. The Ministry of Economy, in conjunction with other ministries, imposes export restrictions and controls, such as:

- Automatic export licences.
- Non-automatic export licences.
- Export quotas.
- Non-tariff regulations.

Currently, the only product subject to an automatic export license is fresh tomato as a result of a suspension agreement in antidumping investigation in the US.

Non-automatic export licenses are designed to protect public morals, the environment, security, public health, public heritage and security interests. Therefore, certain goods that fall under the following categories may be subject to export licenses or permits:

- Live animals.
- Minerals.
- Chemical products.
- Pesticides and other toxic products.
- Textiles.
- Energy and basic petrochemical goods.
- Works of art.
- Security (Conventional Arms and Dual Use Goods)

<sup>6</sup> Trade Policy Review: Mexico, WT/TPR/S/352, p. 9 (February 15, 2017).

# INTERNATIONAL TRADE POLICY

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Like imports, the relevant authority will issue the export permit. The Ministry of Economy, for instance, is in charge to regulate and issue export permits on **dual use goods** provided that it is not subject to export controls by another Ministry or authority<sup>7</sup>. In short, a dual-use good is defined as any tangible or intangible good that can be used for civil, military or weapon proliferation purposes. In this sense, the authority needs to be certain an imported/exported good is not used other than for the “civil” used intended.

For example, the Ministry of Energy has trade controls on some **dual use goods** that fall on the GSN list (i.e. nuclear technology or components) and, thus, said Ministry would issue the export permit instead of the Ministry of Economy. Mexican **HTS 9022.19.01**<sup>8</sup> on X-ray devices, for instance, is a clear example because radiation sensitive regulated by the Ministry of Energy<sup>9</sup>, while the Ministry of Economy has controls on other goods<sup>10</sup> that can be used for weapon proliferation purposes.

In sum, an individual or company that seeks to export (and, of course, import) must review the relevant tariff item (i.e. identification commercial number).

Mexico's **export quotas** are based on its *preferential trade agreements* and FTAs or suspension agreements (for example, the suspension agreement on sugar trade with the US as a result of a subsidy investigation). To obtain an export quota, an exporter must follow two procedures before the Ministry of Economy (namely, the quota request and the quota certificate procedures). The rules governing quota allocations, as well as amounts and requirements, among other matters, vary depending on the product and export destination.

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<sup>7</sup> Ministry of Defense (SEDENA), Ministry of Energy (SENER), Ministry of Health (SS), and Pesticides and Fertilizer Commission (CICLOPLAFEST).

<sup>8</sup> HTS 9022.19.01 on X-ray devices for medical, surgical, dental or veterinary use, including radiography or radiation therapy devices.

<sup>9</sup> Devices generating ionizing radiation, except those intended for medical diagnosis.

<sup>10</sup> Only on non-destructive inspection equipment specially designed for composites of the following type: x-ray tomography systems for three-dimensional inspection of defects; digitally controlled ultrasonic testing machines whose movements to position transmitters or receivers are simultaneously coordinated and programmed in four or more axes to follow the three-dimensional curves of the component being inspected.

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## 3.3 Recent Changes to Mexican Trade Policy

In the last years, a handful of policies affecting trade, directly or indirectly, have been implemented, and others are yet to be developed and enter into force. For example:

- Mexico temporarily raised its most favored nation (MFN) tariffs on **steel, textile** and **footwear** products that will (presumably) expire by the end of 2024.
- Mexico changed its policy on product compliance, with **mandatory standards** at customs affecting imports.
- Mexico overhauled its food labeling regulations to introduce [Front Warning Labels](#), which will enter into force as of October 1, 2020, through three phases. This will have an impact on domestic and imported products and was a source of concern for the US, the EU, and Switzerland.
- Mexico modified its **conformity assessment** procedure for medicines to facilitate imports.
- A **Free Trade Zone Programme** will be implemented in the Isthmus Corridor, which will be managed a public body,

Additionally, the current administration has set up the Northern Border Free Trade Zone Programme, which grants tax rebates to companies that are established on Mexico's northern border. This Programme targets the manufacturing (maquila) industry, which relies heavily on international trade and is well established in this region.

## 3.4 Customs

In general terms, the authority responsible for enforcing customs laws and regulations in Mexico is the Tax Administration Service (*Servicio de Administración Tributaria*, or *SAT*). The *SAT* is a decentralized entity of the Ministry of Treasury that is comprised of several general administrations, including the General Customs Administration, its 52 customs stations, and other units that have customs-related responsibilities.

# INTERNATIONAL TRADE POLICY

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## ***SAT's international & customs-related powers are:***

- Monitor and surveil compliance of the Customs Law;
- Audit compliance of customs and international trade rules (such as rules of origins, tariff preferences, etc.);
- Issue Customs Rulings;
- Develop implementing regulations (i.e. General Rules of International Trade), customs facilitation measures, including annexes and forms to provide greater certainty on the application of legal provisions; and,
- Grant benefits to companies per the General Rules of International Trade.

SAT may apply the sanctions when companies fail to comply with international trade and customs regulations. The sanctions usually involve monetary sanctions as well as the seizure of goods. When a customs-related crime is committed, the Federal Tax Prosecutor is responsible for prosecuting the offenders.

### ***3.4.1 Customs Brokers and Customs Agencies***

In general terms, the customs brokers (and customs agencies) are the only persons authorized to carry out the customs clearance procedures. Customs brokers serve as legal representatives of importers and exporters, and they are jointly and severally liable for tariffs and other charges (taxes) affecting imports and exports, including interests and late-payment charges; fines are not included.

Needless to say, the customs law provides specific cases when a person does not require to retain the services of a customs agency.

### ***3.4.2 Single Customs Window***

Mexico has a Digital International Trade Single Window ("VUCEM" acronym in Spanish) that aims to simplify, standardize, and automate all customs procedures in a single electronic platform. Being that said, companies with import and export operations have to use VUCEM to obtain international trade permits, perform customs procedures, among other matters; for instance, companies submit their applications for automatic and non-automatic licenses through VUCEM, and the authorities would provide through said platform the decision, which would be available to the customs authorities. Therefore, the flow of information between private entities and the Government is expeditious and simple, reducing considerably customs formality.

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## 3.4.3 Requirements to Import and Export in Mexico

Companies or individuals that intend to export goods from Mexico must register in the Federal Taxpayers Register (*Registro Federal de Contribuyentes*, or RFC), which is maintained by the SAT. This is an essential requirement to perform trade and customs activities and to do business in Mexico. For example, registration with the RFC allows companies and individuals to:

- Issue electronic invoices (known as CFDI).
- Apply for certificates and permits.
- Complete customs formalities.
- Apply for tax rebates.
- Obtain an electronic signature, which is required to use the Mexican Digital Window for Foreign Trade (Digital Window).
- Register to the Importers' Registry or Exporters' Registry.

The process to import and export is straightforward and may be summarized as follows: all companies shall file import or export manifests (known as *pedimentos*) attaching the relevant documentation and by using a customs broker.

Companies that import or export will normally require the following documentation:

### Imports

1. *E-Value Certificate* or COVE, which includes information about the invoice;
2. Bill of lading, air waybill or transport document;
3. Documentation proving compliance with any applicable non-tariff regulations;
4. Documents proving the source and origin of goods in cases where tariff preferences, anti-dumping or countervailing duties, quotas and country-of-origin marking requirements are applicable;
5. Where the declared value is lower than the "price estimated" by the authorities, the document showing that the security has been deposited; and,
6. A certificate showing the weight or volume issued by SAT-authorized certifying companies for goods in bulk imported by sea.
7. For goods that present a potential risk to public health or national security, information to permit the identification, examination and control of the imported goods must also be attached.

# INTERNATIONAL TRADE POLICY

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## Exports

1. The transport document;
2. E-Value Certificate or COVE, which includes information reported in the digital tax invoice (CFDI);
3. The packing list;
4. The customs document and certificates showing the quality and quantity of the goods;

### 3.4.3.1 Special International Trade Registries

In addition to registering to the Importers or Exporters Registry, a company that intends to import or export “sensitive” products must apply and register in a Special Importers or Exporters Registries maintained by the SAT. The registration process is straightforward. The company must simply file all the relevant tax documents in order and in the correct format, either in writing or electronically. However, certain products require additional information and documents.

#### Special Importers Registry

1. Chemical products
2. Radioactive and nuclear products
3. Precursor and essential chemicals
4. Firearms and related products
5. Explosives and Explosive materials
6. Chemical substances, fireworks materials, and related devices
7. Other weapons
8. Machines, devices related to weapons
9. Cigarettes
10. Footwear
11. Textile and apparel
12. Ethyl Alcohol
13. Fuels
14. Iron ores
15. Steel products
16. Auto

#### Special Exporters Registry

Exporters must register in the SAT's Register of Exports in Specific Sectors to export products that fall under the following categories:

1. Alcohol, denatured and non-crystallised alcohol
2. Alcoholic beverages (beers, spirits and so on)
3. Tobacco products
4. Energy drinks, including their powders and syrups
5. Iron ores and their concentrates
6. Gold, silver and copper
7. Plastics
8. Rubber
9. Wood
10. Glass
11. Iron and steel
12. Aluminum

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