

SUBSIDIES

Notifications Pursuant to Article XVI:1 of the GATT 1994
and Article 25 of the Agreement on Subsidies and
Countervailing Measures

MEXICO

The following communication, dated 18 October 1996, has been received from the Permanent Mission of Mexico.

Pursuant to Article XVI.1 of the GATT 1994 and Article XXV of the Agreement on Subsidies and Countervailing Measures, I have the honour:

To inform you that, except for the programme indicated below and certain programmes in the agricultural sector, Mexico considers that no measures have been taken on its territory that require notification in conformity with Article XVI.1 of the GATT 1994 and the Agreement on Subsidies and Countervailing Measures;

To notify the Programme of Temporary Imports to Produce Export Goods (PITEX). The requisite information is attached;

To point out that this communication is made without prejudice to Mexico's status as a developing country Member of the WTO and that the subsidies to the agricultural sector will be notified for the purposes of the WTO Agreement on Agriculture.

PROGRAMME OF TEMPORARY IMPORTS TO PRODUCE EXPORT GOODS

1. Title of subsidy programme, if relevant, or brief description or identification of the subsidy
Programme of Temporary Imports to Produce Export Goods (PITEX).
2. Period covered by the notification
June 1995 to May 1996.

3. Policy objective and/or purpose of the subsidy

The programme has been created to promote export activity by Mexican manufacturing firms and involves drawback for exporters of duties paid on temporary imports of fuels, lubricants, factory supplies, spare parts and machinery, equipment, moulds and tools, apparatus, equipment and accessories for research, safety, quality control, communications, training, electronic data processing, etc., incorporated in export goods or returning abroad in the same state in which they were imported.

4. Background and authority for the subsidy (including identification of the legislation under which it is granted)

The programme is governed by the Decree Establishing Drawback of Import Duties for Exporters, published in the Official Journal of 11 May 1995.

5. Form of the subsidy (i.e. grant, loan, tax concession, etc.)

Drawback for exporters of tariff duties on temporary imports of fuels, lubricants, factory supplies, spare parts and equipment, machinery and equipment, instruments, moulds and tools, apparatus, equipment and accessories for research, safety, quality control, communications, training, electronic data processing, etc., incorporated in export goods or goods which return abroad in the same state.

6. To whom and how the subsidy is provided (whether to producers, to exporters or others, through what mechanism; whether a fixed sum or fluctuating amount per unit; if the latter, how determined)

Mexican natural or legal persons established in Mexico who export goods may register a Programme of Temporary Imports to Produce Export Goods, provided they export at least 10 per cent of their total sales or the equivalent of US\$500,000 a year.

For this purpose, exporters are classed as:

- (a) Direct exporters, namely, persons established in Mexico who export goods in the same state in which they were imported or export goods incorporating imported inputs; and
- (b) Indirect exporters, namely, suppliers of inputs incorporated in products to be sold abroad by firms in the National In-Bond (Maquiladora) Industry Register, firms with a PITEC programme, foreign trade enterprises, or by a third party issuing an endorsement and submitting final export orders.

Under this programme authorization is issued to import three different categories of goods: (i) fuels, lubricants, factory supplies, spare parts and equipment; (ii) machinery and equipment, instruments, moulds and tools; and (iii) apparatus, equipment and accessories for research, safety, quality control, communications, training, electronic data processing, etc.

To obtain drawback, exporters must submit to the Ministry of Trade and Industrial Development an application accompanied by various documents, such as information, copies of import and export orders, sales invoices, etc.

The amount of import duties refunded to the exporter is calculated as follows:

- (a) The amount paid in national currency for import duties is split between the selling rate of the peso in relation to the United States dollar on the date on which the payment was made;
- (b) The result of the above is multiplied by the buying rate in relation to the United States dollar on the date on which the refund is authorized. The resulting amount is the amount in national currency payable to the exporter as the refund of import duties.

Similarly, if inputs or goods that a direct or indirect exporter has sent abroad subsequently return to Mexico, the exporter must repay the amount of import duties he has been refunded or is credited with any overcharges.

7. Subsidy per unit, or in cases where this is not possible, the total amount or the annual amount budgeted for that subsidy (indicating, if possible, the average subsidy per unit). Where provision of per unit subsidy information (for the year covered by the notification, the previous year, or both) is not possible, a full explanation

It has not been possible to obtain unit figures or the total or annual amount budgeted for this programme because the Ministry of Finance and Public Credit (responsible for maintaining the registers) keeps these general data without a specific breakdown. Accordingly, PITEX programmes may be mixed with data on temporary imports under non-PITEX programmes.

8. Duration of the subsidy and/or any other time-limits attached to it, including the date of inception/commencement

It is granted only for temporary imports of inputs to produce the goods for export. Therefore, the duration of the subsidy is indefinite.

9. Statistical data permitting an assessment of the trade effects of the subsidy. The specific nature and scope of such data is left to the judgement of the notifying Member. To the extent possible, relevant and/or determinable, however, it is desirable that such information include statistics of production, consumption, imports and exports of the subsidized product(s) or sector(s)

For the reasons indicated under item 7 above, the information requested is not available and, accordingly, cannot be provided.

DECREE ESTABLISHING PROGRAMMES OF TEMPORARY IMPORTS TO PRODUCE
EXPORT GOODS, AND AMENDMENTS AND ADDITIONS THERETO

WHEREAS

Programmes of Temporary Imports to Produce Export Goods (PITEX) were established under the Decree published in the Official Journal of 3 May 1990, and have operated in such a way as to indicate possible changes in procedures so as to provide further administrative facilities;

It is necessary to simplify foreign trade procedures so that the exporter's supplier has access to the same benefits as the final exporter; and

It is necessary to grant administrative facilities so that medium- and small-sized enterprises can supply inputs to be exported by firms with export promotion programmes, the following is hereby issued:

DECREE ESTABLISHING PROGRAMMES OF TEMPORARY IMPORTS TO PRODUCE
EXPORT GOODS, AND AMENDMENTS AND ADDITIONS THERETO

Article 1. (Amended)

The Programme of Temporary Imports to Produce Export Goods is hereby established and will be administered by the Ministry of Trade and Industrial Development.

Article 2. (Amendment of paragraph III and addition to paragraph VIII)

For the purposes of this Decree, the following shall be taken to mean:

- I. Ministry: The Ministry of Trade and Industrial Development;
- II. Exporters: Natural or legal persons manufacturing non-petroleum products, established in Mexico and carrying out direct or indirect exports;
- III. Indirect exporters: Suppliers of inputs incorporated in products to be sold abroad by firms in the National Industry Register In-Bond, firms with a Programme of Temporary Imports to Produce Export Goods or registered as Foreign Trade Enterprises;
- IV. Programme: The Programme of Temporary Imports to Produce Export Goods;
- V. Plant: Industrial premises that are identifiable because they have production installations physically independent of the rest of the firm;
- VI. Specific export project: The manufacture of a product different from the others produced by the firm;
- VII. Waste: The remains of temporarily imported goods that cannot be incorporated in the products obtained and the portion of such goods that is lost or consumed in the production process;
- VIII. Export certificate: A document evidencing indirect exports, issued by firms in the National In-Bond (Maquiladora) Industry Register that have a Programme, or Foreign Trade Enterprises, in accordance with the format established by the Ministry of Finance and Public Credit and published in the decision laying down the General Fiscal Rules for Foreign Trade.

Article 3.

Exporters may obtain authorization for a programme entitling them to the rights set out in this Decree.

Article 4.

Foreign trade enterprises with a valid registration issued by the Ministry may take part in programmes under the terms of this Decree for specific export projects.

Article 5.

The following imports shall be allowed under the programme:

- I. Raw materials, parts and components wholly intended to form part of export goods;
- II. Packaging, packing, containers and trailer bodies wholly intended to contain export goods;
- III. Fuels, lubricants, factory supplies, spare parts and equipment consumed in the production of the exported goods.
- IV. Machinery equipment, instruments, moulds and tools intended for the production process and equipment used for materials directly related to export goods;
- V. Apparatus, equipment and accessories for research, industrial safety, quality control, communications, personnel training, electronic data processing and for the prevention and control of environmental pollution and other items connected with the production of the exported goods.

Article 6.

I. The Ministry, through the Directorate-General of Foreign Trade Services and its regional and federal coordination offices, shall authorize programmes referred to in this Decree, on the following basis:

- I. Importation of goods covered by Article 5, paragraphs I, II and III of this Decree shall be authorized for exporters whose annual foreign sales amount to more than US\$500,000 or the equivalent in other currencies, or who export products which account for at least 10 per cent of total sales.
- II. Importation of goods referred to in Article 5, paragraphs IV and V of this Decree shall be authorized for exporters whose annual foreign sales account for a minimum of 80 per cent of total sales.

The percentages referred to in this Article may also be calculated with reference to plant or to specific export projects, in which case the programme may apply only to such plant or projects.

In the case of programmes authorized for specific export projects, exports of the product shall, by the end of the second year of operation of the programme, offset at least the value of the imports of the goods covered by Article 5, paragraphs IV and V of this Decree.

Article 7. (Rescinded)

Article 8. (Rescinded)

Article 9. (Amended)

The Ministry shall, in decisions authorizing programmes, specify the percentages of waste declared by the beneficiary, which must be the actual amount and may be deducted from the temporary importation.

The Ministry of Finance and Public Credit may verify the declared amounts of waste and, where appropriate, shall inform the Ministry of any requisite adjustments to the percentage established in the programme.

The goods referred to in Article 5, paragraph III of this Decree shall be considered as total waste and, accordingly, the programme beneficiary shall not be required to demonstrate return abroad, provided

he guarantees that they were imported in the actual amounts and values concerned. Excess amounts shall be liable to payment of duties, and taxes and related charges under the applicable legislation.

Article 10. (Amended)

A programme beneficiary may make use of the premises provided for in the customs regulations in order to export and import products at various custom posts and under one or more items. Similarly, he may use the first in, first out system to facilitate customs clearance of the goods.

Article 10A. (Addition)

Goods transferred to a firm where programme in the National In-Bond (Maquiladora) Industry Register or to a foreign trade enterprise [... ...] on presentation of the export certificate issued by the firm.

The issue of the export certificate does not require any import or export permit; however, all of the goods covered by the certificate must be exported, directly or indirectly.

Article 11. (Second paragraph amended)

Exporters carrying out temporary imports of goods under this Decree shall not be required to own them.

The Ministry may authorize persons other than the programme beneficiary to carry out additional processing, provided they meet the conditions established in the programme.

Similarly, authorization may be issued for goods referred to in Article 5, paragraphs IV and V of this Decree to be sold, ceded or rented to a third party under a contract, provided such goods are intended for the processing of export products and fulfil the requirements of Article 6, paragraph II of this Decree, for which purpose a certificate of joint liability for any resulting tax fiscal credits will be needed, pursuant to Article 26, paragraph VIII of the Fiscal Code of the Federation.

In both cases, the Ministry shall notify the Ministry of Finance and Public Credit of the authorizations.

Article 12. (Amended)

A programme beneficiary may obtain authorization to change the import system for goods referred to in Article 5, paragraphs IV and V and apply the duty, exchange rate and value of such goods effective on the date of the change of system, in conformity with the Customs Law.

Authorization may be issued to sell on the home market products made with goods imported under the programme, up to an amount up to 30 per cent of the value of the exports under the firm's programme. Such an authorization shall require the firm to maintain a positive foreign currency balance in operating its programme.

The Ministry shall, where appropriate, issue permission for final importation of the products concerned, on payment of the corresponding customs duties for the imported inputs incorporated in the products covered by the authorization.

If inputs imported under the programme are the subject of concessions to the country of origin, pursuant to trade agreements and treaties signed by Mexico, the corresponding preferential tariff shall apply, provided the programme beneficiary produces the certificate of origin.

Article 14. (Rescinded)

Article 15.

The Ministry may authorize firms operating under the Decree on the Promotion and Operation of the In-Bond Export Industry, published in Official Journal of 22 December 1989, to benefit from this Decree for plant and projects other than those registered under that system or on express relinquishment by the firm of the benefits of that Decree. In the latter case, the Ministry of Finance

and Public Credit and the Ministry shall, each within its competence, specify the conditions, time-limits and guarantees for compliance with the undertakings entered into as an in-bond industry in regard to customs, tax, foreign exchange and other matters.

Article 16.

Temporary imports and exports carried out under the programme do not require prior specific administrative authorization or permits of any kind, unless the programmes include goods subject to such requirements on grounds of national security or for sanitary, phytosanitary, agricultural or ecological reasons. In any event, exemption from permits and authorization under this Article is without prejudice to compliance with other legal provisions applicable.

Article 17.

During the effective duration of the programmes, exporters may submit a substantiated application for them to be expanded or modified, for the purpose of incorporating import and export goods not originally covered by the programme.

The Ministry shall inform the Ministry of Finance and Public Credit of the terms under which the approved programme has been amended or expanded, within not more than three working days of approval.

Article 18.

The Ministry's regional and federal coordination offices may authorize programmes under the rules issued for that purpose.

Article 19.

Interested parties wishing to obtain authorization, or an amended or expanded programme shall submit a duly substantiated application to the Ministry, in accordance with the instructions issued for that purpose.

Article 20. (First paragraph and paragraph III amended and paragraph VI supplemented)

The programme authorization shall include the following:

- I. Scope and the effective duration of the programme;
- II. Exported and temporarily imported goods covered by the programme;
- III. The periods for which temporarily imported goods may remain in Mexico;
- IV. Percentages of waste, loss and customs treatment thereof;
- V. Undertakings and obligations; and
- VI. Effective duration of the programme under commitments entered into by Mexico in international agreements and treaties.

Article 21. (Amended)

The programme beneficiary shall each year report to the Ministry the foreign trade transactions under the programme, not later than the last working day of April, in accordance with the instructions issued for that purpose.

The submission of this report does not relieve beneficiaries of the obligation to maintain a check on their inventories, as stipulated in the Customs Law, and to keep for the Ministry of Finance and Public Credit the relevant documents for the period stipulated in the Fiscal Code of the Federation.

Article 22.

In the event of failure by exporters to comply with this Decree or the terms established in the approval of their programmes, the Ministry of Finance and Public Credit and the Ministry shall, each within its competence, cancel the prospective programme and impose any fines under the relevant provisions.

Article 23.

The Ministry of Finance and Public Credit and the Ministry are authorized, each within its competence, to issue the necessary provisions for the implementation of this Decree.

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