

# CUSTOMS UPDATE

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## Mexico Engages in Aggressive Tariff Reductions of Non-Preferential Duty Rates on Thousands of Products

Rate Reductions are Effective January 1, 2009

On December 24, 2008, Mexico's Economy Secretariat published in the Official Gazette (*Diario Oficial*) a decree amending the Tariff Schedule of the General Import and Export Duties Law. The decree effects major changes in Mexico's Import and Export Tariff (TIGIE)<sup>1</sup> by setting forth reduced or zero duty rates on thousands of tariff items subject to Mexico's non-preferential or general external tariffs.<sup>2</sup> Mexico's new tariff reduction strategy is part of President Calderon's "Program to Promote Growth and Employment" (*Programa para Impulsar el Crecimiento y el Empleo*), which is designed, among other things, to bolster the competitiveness of key industries in Mexico, foster investment in manufacturing, and create jobs.<sup>3</sup>

The tariff reductions are scheduled to occur in five stages, beginning on January 1, 2009, with subsequent tariff cuts occurring on the first day of 2010 through 2013. The products affected are listed in the decree by Mexican Tariff Schedule (HTS) number.<sup>4</sup> Some tariff items are also eliminated, and, in some instances, new tariff items or tariff descriptions are created. The chapters in the TIGIE most affected by these changes deal with capital and industrial products. Duty rates on animal and agricultural products (Chs. 1-24) are not affected by this announcement.

### Immediate Results of an Aggressive Tariff Reduction Approach

Mexico's December 24, 2008, decree has resulted in the immediate reduction or elimination of non-preferential duty rates for approximately 1,050 products listed by HTS in the TIGIE. Some of the products benefiting from the new duty rates are certain organic chemicals (Ch. 29), plastics (Ch. 39), skins and leather (Ch. 41), textile and textile articles (Ch. 51-60), footwear (Ch. 64), iron and nonalloy steel products (Ch. 72), electrical machinery (Ch. 85), motor vehicle parts and accessories

<sup>1</sup> Effective April 1, 2002, Mexico amended its tariff nomenclature and consolidated its non-preferential import and export tariff items into a single tariff instrument known as the General Import and Export Tariff (TIGIE).

<sup>2</sup> Mexico's non-preferential duty rates are the equivalent of Normal Trade Relations (NTR) duty rates in the United States, formerly known as Most Favored Nation (MFN) duty rates.

<sup>3</sup> Mexico's new tariff reduction program is one of various measures recently undertaken by the Mexican government to facilitate trade and strengthen its manufacturing sector. Other recent measures are, for example, the removal of 73 percent of Mexico's antidumping duties (AD duties) on imports from China (covering 749 tariff lines) and the establishment of a transition measure that will progressively decrease and fully eliminate the remaining 27 percent of AD duties (covering 204 tariff lines) by December 11, 2011. Mexico has also issued executive orders geared to facilitate importers' customs operations, for example, through the elimination of estimated prices, industry-specific import registry requirements, and required certificates of origin to prove that an imported good should not be subject to antidumping duties.

<sup>4</sup> Mexico uses an eight-digit system to classify products, both for import and export purposes. Only the first six digits, however, are uniform among countries using the World Customs Organization (WCO) Harmonized System, or HS.



(Ch. 87), and optical instruments (Ch. 90). By 2013, the Mexican government expects to have reduced the duty rate of approximately 80 percent of the existing 10,905 industrial products listed in the TIGIE.

Mexico's progressive tariff reductions will affect, for example:

- the import duty rates of certain vehicles, which will be reduced from 50 percent to 40 percent in 2009, to 30 percent in 2010, and to 20 percent in 2013;
- the import duties on certain footwear, which will be reduced from 35 percent to 30 percent in 2009, to 25 percent in 2011, and to 20 percent in 2013;
- the import duties on certain textiles, which will be reduced from 24 percent to 15 percent in 2009, and to 10 percent in 2011;
- the duty rate on cement, which was 7 percent in 2008, has been reduced to 5 percent in 2009, and will be reduced to zero in 2010; and
- the duty rate on certain steel products (namely inputs and raw materials), which was 15 percent, 10 percent, 7 percent, or 5 percent in 2008 (depending on the specific product), has been reduced to 7 percent, 5 percent, and zero in 2009, and all will be reduced to zero in 2011.

#### **Certain Mexican Trade Preference Programs May be Eliminated**

The December 24, 2008, decree does not affect the preferential duty rates and tariff exemption of Mexico's free trade agreements (FTAs) or special trade programs, such as Sectoral Development Programs (*PROSEC* by the Spanish acronym) or the Eighth Rule (*Regla Octava*).<sup>5</sup> However, the Mexican government may eventually eliminate the *PROSEC* and modify the Eighth Rule because these programs' low or zero duty rates are now being offered under the new tariff reductions.

#### **Benefiting from Mexico's New Non-Preferential Duty Rates**

The companies that stand to benefit immediately from Mexico's new tariff rates are those currently paying non-preferential duty rates. However, companies operating under one of Mexico's 12 free trade agreements or trade preference programs, like *PROSEC*, should examine the new non-preferential tariff rates vis-à-vis the preferential duty rates that they pay on their products. In some cases, the non-preferential duty rates may be comparable to those offered under a FTA or *PROSEC*, thus inviting some companies to reevaluate their import strategy and the trade preference programs that they use to minimize import duty liability.

#### **How We Can Assist**

A careful and timely review of the December 24, 2008, decree is recommended to companies operating in Mexico or interested in benefiting from the new tariff rates, since the new rates can

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<sup>5</sup> Mexico's *PROSEC* and Eighth Rule are import programs that provide tariff preferential treatment on goods that are generally subject to non-preferential duty rates. The *PROSEC* allows companies to import qualifying inputs (whether parts, components, packing materials, or machinery) for the manufacturing of finished products, at reduced or zero duty rates. The Eighth Rule allows companies to qualify their imported products for duty exemption under subheading HTS 9802 provisions.

have an immediate impact on a company's purchasing and sourcing strategies, as well as manufacturing plans.



We are prepared to provide additional information or assistance in reviewing the coverage of the new Mexican decree to determine whether there are any products of importance to your operations that are affected by the new duty rates.

*By Lewis E. Leibowitz, Chandri Navarro-Bowman, and Julia Padierna-Peralta*

### About the Customs Update

Hogan & Hartson periodically publishes *Customs Updates* to notify clients of substantial regulatory and legal changes that could affect global companies. If you have any questions concerning the above information, please contact one of the customs attorneys below.

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