

IMPORT/EXPORT PROCEDURE

AUGUST 2004

Before shipping any merchandise to Mexico, U.S. exporters are advised to secure the services of a licensed customs broker. Customs brokers are able to provide information on applicable duties and non-tariff regulations. More importantly, they are able to guide products through Mexico's sometimes convoluted and confusing customs process in a timely and relatively hassle free manner.

The first thing that a company must do before exporting to Mexico is make sure that the buyer is registered with the Importers Registry. This registry is filed with the Treasury Secretariat (*Secretaría de Hacienda y Crédito Público, Hacienda*). As an exporter, it is also important to ensure that the Mexican importer has submitted all the necessary information regarding packing, labeling, and quality standards certification (Mexican Official Standards or NOMs) to the appropriate Mexican Customs officials.

Customs brokers are limited in what they can do. Mexican import laws contain a number of restrictions and disclaimers that are unavoidable. Certain classes of merchandise are restricted or prohibited altogether if Mexico feels it must protect its economy and security, safeguard consumer health and well being, or preserve the environment.

In addition to customs restrictions stipulated by the Mexican tax authority *Hacienda*, many other Mexican federal government enforcement agencies and departments impose import restrictions, such as Health Secretariat (*Secretaría de Salud*), the Commerce Secretariat (*Secretaría de Economía, SE*), the Communications and Transportation Secretariat (*Secretaría de Comunicaciones y Transportes*), and the Secretariat of the Environment & Natural Resources (*Secretaría de Medio Ambiente y Recursos Naturales, SEMARNAT*) For example, SE requires a special permit before used machinery can enter Mexico and fixes import quotas for certain products. Likewise, environmental permits must be obtained in order to handle or transport hazardous materials. In turn, the Health Secretariat requires certification prior to import for all products designed to have physical contact with the human body.

Finally, Mexico has an elaborate system of mandatory federal standards that must be complied with prior to import.

IMPORTATION PAPERWORK/CUSTOMS DECLARATION

One of the most important services that a customs broker can provide is the handling of paperwork, especially the all-important customs declaration. Customs declarations are not required for imports and exports related to foreign embassies and consulates, electricity, crude oil, natural gas and personal effects. However, all other imports require the importer to present a declaration in writing and under oath to customs officials and provide documentation that verifies the customs value of the merchandise. A copy of this declaration must also be provided to the customs broker or attorney-in-fact. The customs broker prepares the import documentation based on the information provided and pays any monies owing at a private bank located within Customs. The customs broker then presents the merchandise in the presence of customs official accompanied by the previously paid customs declaration.

Commercial Invoice

In addition to the above, customs declaration, a commercial invoice or Pro-forma must be presented when the customs value exceeds US\$1,000. The invoice should be prepared in Spanish; otherwise, a translation may be prepared on the reverse or inside of the invoice. The importing company must also provide the bill of lading or airway bill of lading, endorsed by the transport company. In addition, documents showing compliance with applicable regulations and proof of the country of origin and if appropriate, country of export must also be provided. Lastly, a payment guarantee for additional amounts that may apply if the declared value is less than the estimated price of the merchandise established by *Hacienda* must be provided.

Special regulations also exist that govern the import of samples, demonstration and promotional material. When these goods are to be used in fairs, conferences, exhibitions, trade shows and conventions, they can be temporarily imported duty-free under the Mexican Customs law for up to a period of one year, as long as they are returned in the same state they arrived. The goods must be marked or otherwise identified for the exclusive use during the event, and must be distributed free of charge. However, if the promotional material is to be sold at the event, it must be imported indefinitely. This means that all duties must be paid and that all applicable regulations and non-tariff restrictions are fulfilled. Only when goods are imported definitely can they be sold. Likewise, if the items are not marked to indicate that they are for the specific purpose of promotion, they must be or returned once the event is over.

Packing slip/list

A packing list/slip must always accompany the shipment. This document allows the exporter, the transport agency, the insurance company, customs and the buyer to identify the goods to be imported. The information shown on the packing list/slip must support the description on the commercial invoice. This guarantees strict control, allows for the identification of the complete shipment at any point, and provides a basis for registering complaints with insurance agencies should the merchandise be damaged or missing.

Six copies of the packing list/slip must be issued by the exporter to the transport agency. The packing list/slip must include:

- Description of merchandise,
- Value of merchandise,
- Weight, and
- Volume.
- It is also advisable to include on the packing list/slip the box, parcel or pallet dimensions as it aids in obtaining transport costs within Mexico.

Certificate of Origin

The Certificate of Origin certifies that the goods being imported have been substantially manufactured or produced in a country that is party to a treaty or trade agreement with Mexico, such as NAFTA. If the certificate is obtained, the goods receive preferential tariff treatment. It must be presented without exception with the shipment at the point of entry before goods can receive preferential tariff treatment and avoid payment of compensatory quotas.

There exist various types of certificates of origin, depending on the origin and type of commodity. "Soft" certificates provide tariff preferences under free trade agreements and do not require a visa from the government agency responsible for issuing these types of documents in the originating country. "Hard" certificates of origin are those that must be verified by the authorities of the originating country.

Free Sale Certificate

The importation of some types of goods involves the presentation of yet another certificate at the point of customs clearance. A free sale certificate must be issued in the country of origin of the merchandise to be imported into Mexico. This certificate consists of a written statement made by the appropriate authorities wherein it is declared that, in the country of origin, the goods may be sold and consumed freely without exception, and that its sale does not require a special permit.

Customs Valuation Process

In general, the customs value of goods is their transaction cost, except when this value cannot be determined. The transaction value of imported merchandise is equal to the price paid or payable for the merchandise, plus additional amounts for any of the following:

- Any commissions incurred by the buyer with respect to the imported merchandise.
- The packing costs incurred by the buyer with respect to the imported merchandise.
- Transportation and insurance expenses and any other related expenses such as merchandise handling.
- Royalty or license fees related to the imported merchandise that the buyer is required to pay - directly or indirectly - as a condition of the sale of the imported merchandise for exportation to Mexico.
- Proceeds of any subsequent resale, disposal, or use of the imported merchandise that accrue - directly or indirectly - to the seller.

The price actually paid or payable for the imported merchandise shall be increased by the amounts attributable to the above-mentioned items, however only to the extent that each amount is not otherwise included within the actual purchase price and is based on sufficient information. If for any reason sufficient information is unavailable, the transaction value shall be treated as one that cannot be determined.

It must also be noted that Mexican customs has the authority to declare that the customs value has been determined incorrectly during or after customs clearance. It is advisable to request from Hacienda a confirmation that the value of the goods was correctly calculated to ensure legal certainty and avoid future valuation problems.

Customs Clearance

This is the final stage of the process. During customs clearance, products are prepared for examination by the authorities. This process is as follows:

Deconsolidation

Merchandise is off-loaded from the pallet or taken out of the container in which it arrived for preliminary revision by the contracted transporter, parcel service or customs broker. These agents verify that the packing materials have not been broken and that the merchandise has not suffered any alterations or accidents.

Preliminary Examination

The customs broker or parcel service company examines the goods and documents to determine, among other things, the value of the goods for customs purposes and their dutiable status, whether the goods must be marked with the country of their origin or require special marking or labeling and whether the shipment contains articles that must comply with non-tariff restrictions. Also the customs brokers determine if the shipment contains articles that are prohibited in Mexico, whether the goods are correctly invoiced and whether the goods are in excess of the invoiced quantities. If the merchandise passes all of these tests, it is prepared for customs clearance. All required documents are annexed to the shipment at this point.

Automated Manifest System

Once the corresponding import duties are paid, if applicable, the merchandise is presented, with an entry summary, to customs officials. The entry summary is scanned into the Automated Manifest System to define whether or not the authorities will examine the merchandise or whether it will clear customs without first being reviewed. A red light requires examination, while a green light means the goods have cleared customs without examination.

Customs Examination

If it is determined by the Automated Customs system -- red light -- that the goods must be examined, the shipment is carefully verified. Customs officials ensure that:

- Goods declared on the invoice in fact are the same as those presented physically before customs,
- Declared customs value was correctly calculated,
- Harmonized Tariff Schedule (HTS) number is correct, and
- Regulations and non-tariff restrictions have been observed.

Should customs officials detect any discrepancies, the authorities will levy the shipment and begin the PAMA process (Administrative Procedure in Customs Matters). If no problems are detected, the merchandise has cleared customs.

Second Examination

All merchandise must pass through the Automated Manifest System a second time, regardless of the outcome of the first pass through the system. Shipments may be examined again if a second red light occurs or they may pass without being examined in the event of a second green light.

If a shipment is designated for review, the examination will take place within three hours. This may take longer if discrepancies are detected. If the shipment is not designated for review, it will be released immediately so that it can proceed to its final destination.

Standards

Mandatory standards required to import goods into Mexico are listed by HS code numbers. The products considered for this report are not subject to standards. However, standard NOM-EM-004-RECNAT-1996, states that all products that are imported inside of a wood crate or container or having wood packaging may be inspected at the point of entry to Mexico. This standard applies to the packaging or the container only.

Question: When directly exporting goods to Mexico, shall the corresponding Commercial Invoice contain any specific information?

Answer: Yes, its content shall be specific. The invoice shall contain the place and date of issuance; complete name and address of buyer or importer in Mexico; complete name and address of exporter; detailed description of the merchandise (it should include relevant date on brand name, model, marks, serial numbers, etc.); unit value and total value of each item listed on the invoice; signature of seller, name and position, and shipper's invoice number and customer's order number.

Question: What is the Harmonized Tariff System (HS)?

Answer: The Harmonized Tariff System code numbers are numeric designations for specific types of products. These codes are used to identify goods when they are subject to international trade and they have been adopted by virtually every country in the world. By using these codes, each country is able to assign tariff duties to specific types of products.