

## What Is SECURUS?

SECURUS Strategic Trade Solutions, LLC is a global foreign trade consultancy.

We operate on the front lines of the global economy. We maintain up-to-date information on foreign trade regulatory changes, the trading environment, and trade challenges in virtually every corner of the globe.

We help traders of all sizes enter and navigate the complex world of foreign trade regulation. We work with major multinational enterprises, small businesses, and individuals—anyone looking to move their goods across borders.

SECURUS is also a partner to governments in promoting a fair, safe, and secure global foreign trade landscape.

SECURUS has the solutions to your trade challenges and compliance needs. *SECURUS is your port of entry to the world.*

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## Import Regulations in Mexico

### Second Quarter 2019

Mexico has a dynamic and competitive economy with a gross domestic product (GDP) of US\$2.5 trillion in 2018. Since 1994, the Mexican economy has quadrupled in size. It is now the fifteenth largest economy in the world and the second largest in Latin America.

In 2017, Mexico was the thirteenth largest importer in the world. Its total value of import goods was US\$432 billion. During that year, Mexico was a leading global importer of electrical machinery (US\$86 billion), industrial machinery (US\$71 billion), motor vehicles and parts (US\$42 billion), oil and mineral fuels (US\$36 billion), and plastics (US\$23 billion). Mexico's top import partners are the United States (US\$194 billion in imports), China (US\$74 billion), Japan (US\$18 billion), Germany (US\$16 billion), and South Korea (US\$15 billion).

Mexico is party to more international trade agreements than any other country in the world. These include the North American Free Trade Agreement (NAFTA), the Mexico-EU Free Trade Agreement, the Mexico-Japan Economic Partnership Agreement, the Pacific Alliance, and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Due to Mexico's participation in these agreements, many products, materials, parts, and components can enter the Mexican market free of duties, and products manufactured in Mexico can enter other markets under preferential terms. Mexico's open market makes it an attractive investment destination for businesses seeking to establish regional and global supply chains.

NAFTA underwent trilateral renegotiations in 2017-18. The resulting U.S.-Mexico-Canada Agreement

(USMCA) was signed by the countries' leaders on November 30, 2018. However, the USMCA must be ratified by the legislature of each country to enter into force. As of the second quarter of 2019, NAFTA is still in place and its provisions have not changed.

Mexico's open and highly diversified market offers many opportunities for businesses wishing to import their goods to Mexico. However, in order to take advantage of preferential trade arrangements and avoid fines for non-compliance, importers must be informed of the complexities of Mexico's foreign trade system.

### Laws & Regulations

The *Foreign Trade Act* (last amended in 2006) empowers the Mexican government to promote and regulate foreign trade with the goals of increasing Mexico's competitiveness in the global market, making efficient use of Mexico's natural resources, protecting Mexico's producers from unfair trade practices, and increasing the well-being of Mexico's citizens.

***In order to take advantage of preferential trade agreements and avoid fines for non-compliance, importers must be informed of the complexities of Mexico's foreign trade system.***

| Other Import Laws and Regulations Include...   | What They Do...  |
|--|--|
| <i>Federal Law on Firearms and Explosives</i> (last amended in 2015)   | Regulates imports of arms, munitions, gunpowder, and explosive devices and substances  |
| <i>Federal Plant Health Law</i> (last amended in 2017)   | Regulates imports of vegetables, their products and sub-products, transport vehicles, machinery, materials, and equipment that may be susceptible to carrying diseases, and pathogens that may pose a phytosanitary threat |
| <i>Federal Animal Health Law</i> (last amended in 2018)  | Regulates imports of animals, animal products, and related merchandise   |
| <i>Regulatory Law of Constitutional Article 27 on Nuclear Issues</i> (last amended in 2012)  | Regulates imports of radioactive material and ionizing radiation-generating devices  |
| <i>Federal Law for the Control of Chemical Substances Susceptible to Diversion for the Manufacture of Chemical Weapons</i> (last amended in 2009)                                | Regulates imports of toxic and precursor chemicals used in manufacturing of chemical weapons and related facilities, technology, and equipment   |
| <i>General Health Law</i> (last amended in 2018)   | Regulates trade in medical equipment, prostheses, diagnostic agents, surgical materials, narcotics, psychotropic substances, medical radioactive sources, human organs and blood, and related items                        |
| <i>Federal Law for the Control of Chemical Precursors, Essential Chemical Products and Machines to Prepare Capsules, Pills and/or Compressed Products</i> (last amended in 2018) | Regulates trade in chemical precursors, essential chemical products, and machines used to prepare pills and other compressed products  |

The *Foreign Trade Act* provides the Mexican federal government with foreign trade-related powers. These include:

- Regulating, restricting, and prohibiting the importation of specific goods pursuant to other laws relating to national security, the environment, and public health through agreements published in the *Official Gazette of the Federation*;
- Creating, increasing, reducing, or eliminating tariffs on products; and
- Establishing measures to regulate or restrict imports.

The *Foreign Trade Act* is implemented by the *Foreign Trade Act Regulations* (last amended in 2014). The regulations identify the specific functions of government bodies relevant to foreign trade and requirements for foreign trade procedures.

The *Law of General Taxes on Imports and Exports* (last amended in 2018) establishes tariffs on goods and merchandise imported to Mexico.

***The Foreign Trade Act empowers the Mexican government to promote and regulate foreign trade.***

The *Customs Law* (last amended in 2018) and its implementing regulations, the *Customs Law Regulations* (last amended in 2017), establish customs procedures for the entry of goods, merchandise, and transport vehicles to Mexico.

Each year, Mexico's Tax Administration Service (SAT) issues the *General Foreign Trade Rules* pursuant to the *Customs Law*. The rules establish import requirements and provide details concerning import processes and procedures.

Additionally, the Mexican government issues agreements (*acuerdos*) with competent regulatory bodies to regulate, restrict, or prohibit trade in certain items. These agreements contain import control lists detailing the items subject to import licensing.

Import tariffs and customs procedures are updated regularly, and import control lists often feature commonly traded products and merchandise. Therefore, it is crucial that traders interested in the Mexican market remain aware of any changes in Mexico's statutes and agreements, as they will affect the tariff rates and licenses that apply to imports of goods or merchandise to Mexico.

### Regulatory Bodies

The Secretariat of Economy (SE) proposes tariffs and non-tariff restrictions on the importation of foreign trade goods, procedures regarding unfair trade practices, safeguard measures, and countervailing measures.

SE also issues permits for imports of certain merchandise subject to control. These items are found in Annex 2.2.1 of the *Agreement by Which*

*the Secretariat of Economy Issues General Rules and Criteria Regarding Foreign Trade*. These items include tires for rethreading and laboratory tests, articles of clothing, used vehicles, agricultural products originating in certain countries or imported under certain free trade agreements, and raw diamonds.

***The Secretariat of Economy proposes tariffs and non-tariff restrictions on the importation of foreign trade goods and issues permits for imports of certain merchandise subject to control.***

The Foreign Trade Commission (COCEX) is an interagency body that operates under the SE. It must review and issue opinions in the *Official Gazette of the Federation* on any proposed import restrictions, prohibitions, and regulations, import quotas, rules of origin, safeguard measures, and non-tariff measures such as the requirement of permits for certain transactions. COCEX recommendations can influence Mexican import regulations, although its decisions are not binding.

The General Customs Administration (AGA), within the SAT, executes Mexican customs laws, approves the entry of all goods and merchandise to Mexico, ensures that imports comply with Mexican laws, and collects any import taxes and duties that apply.

| Other Regulatory Bodies Include...  | What They Do...   |
|---|---|
| Secretariat of National Defense (SEDENA)  | Monitors and controls activities and industrial and commercial operations dealing with arms, munitions, and explosives<br>Issues permits for imports of arms, munitions, and explosives<br>Assists in the customs clearance process for arms, munitions, and explosives   |
| National Commission of Nuclear Security and Safeguards, Secretariat of Energy (SENER)   | Issues permits for imports of nuclear materials and fuels and radioactive waste   |
| National Investigation and Security Center (CISEN), National Authority (NA), Secretariat of the Interior (SEGOB)                              | Coordinates the application of the <i>Federal Law for the Control of Chemical Substances Susceptible to Diversion for the Manufacture of Chemical Weapons</i> with other Mexican government bodies  |
| Secretariat of Agriculture and Rural Development (SADER)  | Conducts phytosanitary and zoological sanitary controls, including inspection and quarantine, upon the importation of animals and plants to Mexico<br>Imposes administrative penalties for non-compliance with the <i>Federal Plant Health Law</i> and <i>Federal Animal Health Law</i>   |
| Federal Commission for the Protection against Health Risks (COFEPRIS), Secretariat of Health (SALUD)  | Conducts sanitary controls for and monitoring of products listed in Schedule II of the <i>General Health Law</i> , activities related to their importation, and establishments to which the products are destined<br>Issues import licenses for goods subject to sanitary control<br>Issues import licenses for radioactive and related materials for medical use |
| Inter-Secretariat Commission for the Control of the Manufacture and Use of Pesticides, Fertilizers, and Toxic Substances (CICOPLAFEST), SADER | Authorizes the registration and certification of the sale of pesticides and vegetal nutrients<br>Issues import permits for pesticides, vegetal nutrients, and dangerous or toxic substances   |
| Secretariat of the Environment and National Resources (SEMARNAT)  | Authorizes importation of pesticides, vegetal nutrients, and toxic or dangerous substances and materials  |

| Controlled Items Include...                        | Their Tariff Classification Numbers Are...   | Why They Are Controlled...  |
|--|--|---|
| Chemical materials                                 | 2812.10.01; 2812.10.02; 2812.10.03   | National defense  |
| Radioactive and nuclear materials                  | 2612.10.01; 2612.20.01; 2844.10.01   | Peaceful and wise use of nuclear resources  |
| Chemical precursors and essential chemicals        | 2804.70.02; 2806.10.01; 2807.00.01   | Toxic and dangerous materials   |
| Arms, their accessories, munitions, and explosives | 8710.00.01; 8802.12.99; 8802.30.02   | National defense  |
| Chemicals used in pyrotechnics manufacturing       | 2503.00.01; 2503.00.99; 2802.00.01   | National defense  |
| Machinery used in weapons manufacturing            | 8457.10.01; 8457.20.01; 8457.30.04   | National defense  |
| Cigarettes   | 2402.20.01   | Protection of financial system and national economy   |
| Footwear   | 6401.10.01; 6401.92.02; 6401.92.03   | Protection of national economy  |
| Textiles   | All tariff codes in chapters 50-63 of the <i>Law of General Taxes on Imports and Exports</i> | Protection of national economy  |
| Alcohol  | 2207.10.01; 2207.20.01   | Protection of public health   |
| Hydrocarbons and petroleum products                | 2710.12.03; 2710.12.08; 2710.12.09   | Protection of national interests, including energy security, sustainable hydrocarbon extraction, market diversification, contributing to added value, development of national industry, and protection of the environment |
| Steel-making instruments                           | 7202.11.01; 7202.19.99; 7202.30.01   | Protection of national economy  |
| Steel products                                     | 7210.12.01; 7210.12.99; 7210.20.01   | Protection of national economy  |
| Car parts and accessories                          | 8701.20.02; 8702.10.05; 8702.90.06   | Protection of national economy  |

## Controlled Items

Businesses wishing to import goods and merchandise to Mexico should be aware of the restrictions or prohibitions that the Mexican government imposes on the movement of certain items through its borders. If a business wishes to import goods or merchandise that appear on any of the lists of controlled items, a special permit is required. The lists of import-controlled items change on a regular basis. Therefore, it is important to stay up to date with any foreign trade edicts or directives issued by the Mexican government.

The Mexican government can prohibit the importation of goods and merchandise by issuing decrees in the *Official Gazette of the Federation*. Examples of items prohibited from importation to Mexico are:

- Turtle or loggerhead skins;
- Live predatory fish;
- Poppy seed flour;
- Marijuana, its products, and sub-products;
- Opium;
- Heroin;
- Certain opioids;
- Certain publications representing childhood in a humiliating manner, such as "Garbage Pail Kids;"
- Thallium sulfate; and
- Dangerous or toxic substances.

In addition to these items, the Mexican government prohibits or restricts the importation of certain items based on international commitments and Mexico's participation in international treaties. These include:

- Precursor chemicals and chemical substances that can be used to produce chemical weapons, as well as facilities, technology, and specialized equipment used in their production (controlled pursuant to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction);
- Biological material and toxins that constitute a risk to human health (controlled pursuant to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction); and
- Narcotics, psychotropics, and other substances or vegetables listed under Article 479 of the *General Health Law* (controlled pursuant to the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances).

## Import Process

The following is a description of the import authorization process, according to the SAT:

- A person that wishes to import goods to Mexico must register with the Federal Taxpayer Registry (RFC) and acquire a Mexican Tax ID. In addition, the importer

must be current on all of his or her fiscal obligations.

- The importer must have an advanced electronic signature (e.firma) for tax purposes or a digital seal.
- The importer must register with the Importer Registry of the SAT.
- If the importer wishes to import goods subject to control, the importer must register with an industry-specific Importer Registry (Padrón de Importadores Específicos). Mexican importers must apply to the Secretariat of Finance and Public Credit (SHCP) for registration under the Padrón.
- The importer must hire a customs broker in Mexico or entrust a legal representative with customs clearance powers. This legal representative must be approved by the SAT. *While the Mexican government no longer requires the use of a customs broker's services to import goods to Mexico, it is important that importers have proper guidance when importing goods. Errors in documentation and non-compliance with customs laws can result in penalties.*

***If a business wishes to import goods or merchandise that appear on any of the lists of controlled items, a special permit is required.***

***The customs broker or legal representative must complete a *pedimiento de importación* (import application), which serves as a record of the trade transaction.***

- The importer must obtain information and documentation that serves as evidence of the country of origin of the merchandise for tariff purposes.
- The customs broker or legal representative must complete a *pedimiento de importación* (import application), which is a detailed form specifying the description, quantity, classification, origin, value, weight, and size of the goods being imported, the parties involved in the trade transaction, and the places where the goods might have been before arriving in the Mexican customs territory. This serves as a record of the trade transaction.
- The importer is responsible for paying any applicable tariffs on the products he or she seeks to import.
- The importer must comply with all non-tariff restrictions, such as acquiring special permits prior to the importation of the goods. The documents required for the application and the process for acquiring an import permit vary according to the agency in charge of issuing the permit.
- Certain types of controlled goods may require an inspection procedure by the agency that issued the import permit. For example, goods such as vegetables, their products, and sub-products are subject to a phytosanitary inspection upon their importation to Mexico. If such imports do not fulfill the necessary requirements, the goods may be placed under quarantine pending their return to their country of origin or their destruction.
- Importers must comply with all Official Mexican Norms (NOM), such as proper labeling and packaging and phytosanitary requirements.

## ***Penalties for Non-Compliance***

The Mexican government can impose strict administrative and criminal penalties on legal and natural persons that do not comply with Mexican foreign trade rules and regulations. The penalties imposed by the Mexican government for trade violations vary according to the type of infraction committed and the law imposing the penalties.

***The Mexican government can impose strict administrative and criminal penalties on persons that do not comply with Mexican foreign trade rules and regulations.***

The *Foreign Trade Act* includes the following administrative offenses and penalties:

- **Falsifying, omitting, or altering documents or information related to rules of origin, prior permits, quotas, or seals of origin, whether knowingly or unknowingly:** Fine of twice the value of the merchandise imported;

- **Shipping merchandise to any destination other than the one identified in the import permit:** Fine equal to the value of the merchandise;
- **Providing false information or documents or omitting the real information or documents, or altering them to obtain compensatory quotas or safeguard measures:** Fine equal to the value of the merchandise imported during the investigation period.

Administrative offenses and penalties under the *Customs Law* include:

- **Failure to pay any foreign trade taxes in full or in part:** Fine of 130% to 150% of the omitted taxes, or 80% to 120% when it is committed by a passenger;
- **Failure to provide proper documentation proving the fulfillment of non-tariff requirements such as permits:** Fine of 70% to 100% of the total value of the merchandise;
- **Providing false or inaccurate information dealing with the value of the merchandise or its commercialization:** Fine of Mex\$20,510 to Mex\$34,190 (US\$1,067-1,779).

***It is important that traders remain informed of Mexico's foreign trade laws and regulations and aware of the frequent changes that occur.***

Criminal offenses and penalties include:

- **Importing dangerous substances or reactive, explosive, toxic, inflammable, or radioactive materials that may damage natural resources, flora, fauna, ecosystems, water quality, the soil, the subsoil, or the environment, in an illicit manner or without applying the proper measures of prevention and security:** 1 to 9 years in prison and a fine of 300 to 3,000 working days (*Federal Penal Code*);
- **Illegally importing ammunition, cartridges, explosives, and materiel for the exclusive use of the Army, Navy, and Air Force or subject to control:** 5 to 30 days in prison and a fine of 20 to 500 working days (*Federal Law on Firearms and Explosives*);
- **Providing false information or concealing information related to regulations set by this law:** 2 to 6 years in prison and a fine of 100 to 300 working days (*Federal Law for the Control of Chemical Substances Susceptible to Diversion for the Manufacture of Chemical Weapons*).

Therefore, it is important that traders remain informed of Mexico's foreign trade laws and regulations and aware of the frequent changes that occur.

*SECURUS Strategic Trade Solutions, LLC has substantial experience guiding private industry and governments through the intricacies of foreign trade regimes, including Mexico's. Please contact us today with your specific issues or questions regarding Mexico's import regulations.*

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