

International Trade and Customs Practice Group Newsletter



ME 2022 Rules Agreement

On May 9 of this year, the Ministry of the Economy (hereinafter, "ME") published in the Federal Official Gazette the "Agreement by which the Ministry of the Economy issues general rules and criteria on foreign trade matters" (hereinafter, "ME Rules Agreement 2022"), which entered into force on the day of its publication, except for the provisions of the transitory articles, and which may be consulted [here](#).

The purpose of the ME Rules Agreement 2022 is to establish general provisions and criteria for compliance with different legal provisions under the jurisdiction of the ME, grouping them in such a way as to facilitate their application, in order to provide legal certainty to importers and exporters.

This publication is also given that, among other factors, the Agreement by which the Ministry of the Economy issues general rules and criteria on foreign trade published on December 31, 2012, which is abrogated along with its subsequent amendments with the publication of the ME Rules Agreement 2022, was modified up to 45 times during the last ten years, so it was necessary to have a publication that would reflect all the updates in a single document.

Additionally, it was necessary to incorporate in this ME 2022 Rules Agreement different provisions, resolutions and criteria that have been issued by the Ministry of the Economy, as well as to reflect the contents of different publications related, among other topics,

to the denomination, structure and operation of governmental agencies, modifications to the tariff rate applicable to the import and export of goods, goods subject to compliance with Mexican Official Standards (hereinafter "NOMs") at the point of entry into and exit from Mexico, procedures for the entry and management of several formalities, and the adoption of administrative facilitation measures and the use of electronic means.

These are some of the changes that we consider most relevant:

- Rule 1.3.4 establishes that those procedures, consultations or requests other than those submitted through the Digital Website (hereinafter "VUCEM"), may be submitted through emails established for such purposes and which will be published in the official website of the National Foreign Trade Information Service (hereinafter "SNICE"), for which a follow-up folio will be received. A copy must be sent to dgfcce.gestion@economia.gob.mx, in addition to the specific email enabled for each procedure;
- Rule 1.3.5. establishes what must be included in the writs that are filed before the General Administration of Trade Facilitation and Foreign Trade, indicating that in those cases in which it has not been specifically established as a modality of submission of the procedure through electronic mail, it may be presented physically;

- Rule 1.3.9 clarifies that the ME, either directly or through other government agencies, including state or municipal authorities with which it has entered into collaboration agreements, may conduct inspection or verification visits to the facilities of the holders of registrations, programs, certifications or authorizations it grants, and may cancel them, if the information and/or documentation presented for such purpose is inconsistent, false or has been tampered with;
- For purposes of automatic import notices for steel products, it defines what is meant by windmill, windmill certificate and quality certificate, specifying that such certificates must contain a handwritten signature or QR Code in order to be considered as endorsed by the producer or manufacturer of the goods to be imported;
- Chapter 2.4 of NOMs adopts several provisions that were previously included in Annex 2.4.1 of NOMs or in different resolutions or criteria issued by the ME, such as the exceptions to NOM compliance that are now listed in rule 2.4.11, and which used to be in number 10 of Annex 2.4.1 of NOMs;
- Rule 2.4.8 provides that, when the commercial information labels of goods contain inaccurate data, they may be submitted for customs clearance, as long as prior notice is given to the General Administration of Trade Facilitation and Foreign Trade, which may now be submitted via email, instead of in person, for which the receipt notice issued by such authority will be published in the SNICE website, and which must be digitalized as an annex to the corresponding customs declaration;
- Within the NOM compliance exceptions established in rule 2.4.11, the possibility of exempting the same in the case of goods imported with a simplified customs declaration and procedure, through courier and parcel companies registered with the Tax Administration Service ("SAT"), when the customs value does not exceed \$2,500.00 U.S. dollars or its equivalent in local currency, with the exception of goods classified under certain tariff items, is added;
- Within this same rule, it is clarified that goods imported under a PROSEC program that are directly destined to the production of any good listed in such program may be exempted from compliance with NOMs, although only in the case of raw materials or inputs;
- Regarding countervailing duties, rule 2.5.1 establishes that goods that could be classified, in principle, in two or more tariff items by application of the General Rules of Article 2 of the General Import and Export Tax Law, and any of such goods are subject to the payment of countervailing duties, must comply with the payment of such duties, regardless of the tariff item under which the rest of the goods are presented for customs clearance;

- It is also clarified in rules 2.5.3 and 2.5.4 that Annex 2.5.1. of the ME Rules Agreement 2022 (which will be updated every six months) will include the tariff codes in which goods subject to the payment of antidumping duties are classified in accordance with resolutions published by the ME, specifying that in the event of discrepancy between this annex and the resolutions issued, the latter will prevail;

- Regarding the development programs, among which the IMMEX and PROSEC programs stand out, it is established that the only applications for which a Notarial Certification must be filed are the following:

- » Application for a new IMMEX program
- » Extension of activities under the Services modality
- » Extension for repair, reconditioning and remanufacture
- » Change of IMMEX modality
- » Extension to import sensitive goods
- » New PROSEC program request

This means that it will no longer be necessary to submit a Notarial Certification for the following requests:

- » Registration of domiciles, such as warehouses or storage facilities.
- » Extension for the registration of submanufacturing companies.
- » Subsequent extension to import sensitive goods

- It is important to note that the Notarial Certification for those requests in which it is applicable must be issued by an attesting official authorized by the ME, made known through the SNICE website in the list that can be consulted [here](#), and must not be older than three months as of the date of submission of the corresponding request;

- However, in the procedures filed up to six months after the publication of the ME 2022 Rules Agreement, the Notarial Certifications may be issued by any attesting official. After said term, only those issued by an attesting official authorized by the ME may be filed;

- As an alternative to the Notarial Certifications, the ME 2022 Rules Agreement considers the possibility of requesting an inspection or verification visit to the ME, or through other governmental authorities, including state or municipal ones with which it has signed collaboration agreements;

- Rule 3.2.5 establishes that in cases where two or more companies with an IMMEX program, or one or more companies with an IMMEX program, and others that do not have such program, are located at the same address, the facilities must be physically bounded from each other and be independent, and a more detailed description is added as to what is understood by such delimitation and independence;

- Rule 3.2.15 is added, which states that for purposes of demonstrating the minimum volume of exports required for the IMMEX program, companies that produce intangible goods or operate under the service modality may submit, as an alternative to export manifests, the annual income tax return or a list of invoices signed under oath by the legal representative of the company describing, among other aspects, the goods or services exported;
- Rule 3.2.19 establishes that companies that, in addition to an IMMEX program, have a VAT Certification issued by the SAT, will not have to process an extension before the ME to import additional goods for their manufacturing process or to include final products to be exported, although they must inform the General Administration of Trade Facilitation and Foreign Trade through a writ sent by email about such extensions;
- Rule 3.2.38 and rule 3.4.20 respectively, establish that certain documents that must be sent to the ME in cases of merger or spin-off of companies that have an IMMEX program and the PROSEC Program, which must be carried out within ten business days after the registration of the corresponding agreements before the Public Registry of Commerce. It also clarifies that the surviving IMMEX and/or PROSEC company must register under its program the domiciles of the merged companies and that in the case of companies that disappear as a result of the foregoing, they must request the cancellation of their program, while those that survive and do not have a program must request a new program;
- Rule 3.2.39 indicates that the term for reporting changes in the data stated in the application for approval of an IMMEX program, such as corporate name, RFC, partners or shareholders, legal representative or tax domicile, is ten business days from the date of the corresponding change, establishing the need to file a writ in terms of rule 1.3.5;
- Regarding extensions for the import of sensitive goods, rules 3.3.7, 3.3.10 and 3.3.11 establish that the corresponding authorizations will be valid for four months, and may be extended only once for the same term to exercise the pending authorized amount, and for a subsequent extension to be authorized, the company must demonstrate that it has exported 100% of the total volume imported;
- Rule 3.2.37 states that the terms for the Ministry of the Economy to issue a resolution are 15 business days in the case of program applications or the extension of sensitive goods, and ten business days in the case of other procedures related to the program. In this regard, it is clarified that such terms will begin to be counted from the moment the application file is properly integrated, which will occur after the inspection visit has been carried out, for which the ME will have a maximum term of ten business days counted from the day after receiving

the application, or after the terms to comply with the requirement issued;

- In the case of PROSEC programs, rule 3.4.19 establishes that the maximum term for the ME to issue a resolution of the request for a new program, for an extension of such program, or for the registration of a new address is fifteen business days;
- In some procedures for the authorization of imports under Rule Eight, it is established as an additional requirement the submission of a writ in terms of rule 1.3.5.

This agreement entered into force on the date of its publication, except for the provisions mentioned in the First Transitory Article.

We are at your service for any additional questions or clarifications you may require in connection with this newsletter.

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