Customs Update

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Mexico's Maquila program could be the first casualty of Nafta on Jan. 1, 2000

For decades, the trade of goods into and out of Mexico has benefited from the country's popular duty-deferral system, known as the Maquila program.

On Jan. 1, 2001, however, many of the companies that have taken advantage of this program will lose some or all of the benefits they have enjoyed.

Ironically, the regional trade agreement that was introduced to encourage transnational production operations is at the heart of this predicament.

The Maquila system — which may be described as an agglomeration of foreign trade zones, temporary importations under bond, bonded warehouses and inward processing programs — allows importers to temporarily bring goods into Mexico duty-free for repair, transformation or manufacture, with a certain percentage of treated goods to be exported.

Currently, Mexican duties on imported materials, parts and components assembled into finished products for export in a maquiladora are waived.

Yet, beginning Jan. 1, 2001, this preferential duty treatment will be restricted or eliminated.

Under Article 303 of the North American Free Trade Agreement, after Jan. 1, 2001, Mexico may only waive the lesser of the duties owed on imported components used in assembly plants and subsequently exported or the duties paid to the party to which the finished merchandise is ultimately imported.

Conversely, if the U.S. duties equal or exceed the Mexican duties, Mexico will be permitted to waive the entire bill and the Maquila manufacturer will, in essence, continue operating "duty-free."

Regardless of the amount deferred, Article 303 requires that the importer/exporter present 'satisfactory' evidence to the Mexican government of the amount of customs duties paid to the United States or Canada on the good which was exported from Mexico within 60 days of the date of exportation.

These changes are expected to raise significant questions as to the future and viability of the Maquila program.

With duty benefits reduced and administrative burdens increased, there will be fewer incentives to participate after 2001.

Nafta won't affect exporters outside Mexico

Under the current Maquila program, Mexico would waive the entire $15,000 in duties owed on the microchips since such items never enter the commerce of Mexico.

However, upon implementation of Article 303, Mexico would only be permitted to waive $10,000 of the $15,000 in duties owed (i.e., the lesser of the two).

Accordingly, whereas the manufacturer is currently responsible for $10,000 in duties, after Jan. 1, 2001, it will be responsible for $15,000, a 50% increase.

In addition, importers and exporters should be aware that if the finished product qualifies for duty-free entry into the United States under Nafta or another program, they will be responsible for the entire amount of Mexican duties owed on the components.

A $5,000 drawback when Nafta goes into effect

Notwithstanding, while Nafta is likely to diminish the attractiveness of the Maquila program for manufacturers exporting to the United States and Canada, it will have no effect on exporters to other nations.

In addition, the Maquila industry is one of the most important sources of foreign direct investment in Mexico, creating jobs and building infrastructure.

These features are essential to the recovery and stability of the Mexican economy. Therefore, it is unlikely that the Mexican government will eliminate the Maquila program completely.

For those companies that export to the United States and Canada, the Maquila program may offer significant advantages. First, if duties do exist on the imported products, Mexican duties may be eliminated or reduced by that amount.

Second, Maquila manufacturers would still enjoy duty deferral until the time of export.

Third, Maquilas are afforded facilitated customs procedures such as filing consolidated import documents and exemption from compliance with certain labeling and phytosanitary certification requirements.

Fourth, Maquilas do not have to pay Mexico's value-added tax on inputs used in assembly or manufacturing processes.

Finally, since Nafta will not eliminate all import duties between member countries until 2008, there are potential Maquila duty savings-existing until then where the U.S. duties are higher than those assessed by Mexico.

A pillar of Mexico's platform is threatened

Although the Maquila program faces a great test of its value to the Mexican economy, it remains a critical feature of Mexico's foreign trade agenda.

Consequently, rather than terminate operations, the government may choose to reinvigorate the Maquila program by implementing new incentives.

As such, it is walking something of a tightrope in that it must make the necessary changes, but work within the confines of Article 303. If the Maquila program is to remain viable, it will challenge the creativity of Mexican trade officials to reach a workable solution.