

## Mexico: Amendments to Rules and Criteria on Foreign Trade

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October 27, 2020 Edgar Klee, Fernanda Ruizesparza

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PRACTICES Mexico, International

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On October 1, 2020, the "*Document that modifies rules and criteria of a general nature in matters of foreign trade*" (the "Amending Document") was published in the Official Gazette of the Federation ("DOF"), through which various provisions of Annex 2.4.1 ("the Annex") were modified.

One of the most relevant amendments to the Annex was the repeal of the exemption for compliance with the Mexican Official Standards ("NOMs") for commercial information with a "non-commercialization letter."

Consequently, as of October 1, 2020, importers of goods classified in the tariff sections set forth in the Annex must comply with the NOMs for commercial information under the terms and conditions set forth therein.

Customs authorities issued a letter on October 2, 2020 ("the Official Letter") confirming the measure adopted and detailing how to comply with these obligations established by the NOMs for commercial information.

The Official Letter establishes that the importer of certain goods may comply with the NOMs by choosing any of the following alternatives.

1. Labeling abroad ("from origin");
2. Labeling abroad ("from origin") and having proof of compliance;
3. Labeling in Mexico in a General Warehouse accredited and approved as a verification or inspection unit;
4. Labeling in Mexico in a private address where the accredited verification unit will go to conduct a verification or inspection. This option is feasible if the importers have been on the importers' registry for at least two years.<sup>1</sup>

There are certain exceptions that allow goods to be imported without complying with the NOMs, such as the following:

1. Goods destined to the temporary import regime;
2. Samples;
3. Goods whose combined shipment value does not exceed US\$1,000;
4. Prototypes and samples imported by companies certified by the SAT and goods imported in a quantity no greater than 300 pieces per year.

It is necessary to comply with all of the requirements set forth in the Annex in order to apply these and other established exceptions. In the same way, there are some goods that cannot be subject to these exceptions.

It is important to review each of the tariff classifications that apply to the goods to be imported in the specific case to analyze and determine if it is possible to apply some of the exceptions provided or, if so, the best alternative for compliance with the NOMs.

The Amending Document is susceptible to challenge through various means of defense; however, it is unclear that suspension of the effects of the Agreement can be obtained considering the nature of the applicable NOMs.

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<sup>1</sup> You may choose to use the option set forth in paragraph 6, section II of the Annex even if you do not have two years of seniority in the Register of Importers, provided that the operation is carried out before November 7, 2020.