Mexico

【Risk Warning】

In 2009, Mexico issued a variety of technical trade measures on the products such as mechanical medicines, herbal remedies, distribution transformers, electric washing machines, and others.

On May 5, 2009, the Federal Commission for Health Risk Protection of Mexican Ministry of Health published the notification G/TBT/N/MEX/174, setting forth the minimum requirements for the processing of herbal remedies marketed in Mexico.

The Mexican technical standard NOM-015-SCFI-2007 has been effective from January 17, 2009, substantially amending the previous labeling requirements for toys. Toy exporters are thus required to go through certification procedures and to label their products properly based on the new requirements.

1. An Overview of Bilateral Trade and Investment

According to China Customs, the bilateral trade volume between China and Mexico in 2009 was USD 16.18 billion, down by 7.8% from 2008. China's exports to Mexico accounted for USD12.30 billion, an 11.3% decrease; China's imports from Mexico increased 5.2% to USD 3.88 billion. China ran a surplus of USD 8.42 billion with Mexico. China's major exports to Mexico include electrical equipments, electronic devices, audio-video equipments and spare parts, mechanical and spare parts, toys, game products and sports facilities, optical and photographic and medical equipments, and plastic products. China's imports from Mexico include base metal and its products, mineral, electro-mechanical equipments, transportation equipments, plastic, rubber, chemical products, and leather products.

According to the Ministry of Commerce of China (MOFCOM), the accomplished business revenue through contracted projects by Chinese companies in Mexico was USD 165 million in 2009. Transaction value of completed labor contracts totaled USD 2.28 million.

According to MOFCOM, in 2009, China's non-financial FDI in Mexico, approved by or registered at the MOFCOM, totaled USD 1.734 million. Meanwhile, Mexico invested in 12 projects in China totaling USD 910,000 in actual used amount.

2. An Overview of Trade and Investment Administration Regime

2.1 Trade Administration Regime and Its Development

2.1.1 Tariff Regime

2.1.1.1 Tariff Administration

Pursuant to the 1993 *Foreign Trade Act* (FTA), the President of the Republic is empowered to modify the general taxes on imports and exports. The Law also provides that the Ministry of Economy may propose tariff modifications to the President and it is the responsibility of the Foreign Trade Commission to give an opinion on such modifications.

2.1.1.2 Average Tariff Rates and the Adjustments

The simple average tariff applied in Mexico in 2008 was 12.6%, with the tariff of agricultural products at 22.9% and non-agricultural at 11.1%, animal products at 41.2%, dairy products at 39.1%, sucrose and cereals at 63.9% and clothing at 35%.

As of Mexico's notification of tariff changes dated December 2009, the import duties have been reduced on some spare parts and capital goods, including chemicals, truck tires, wood wares for pencils and scissors. Descriptions of certain tariff items have been revised too, covering industries of chemicals, plastics, ceramics, electromechanical devices, electronics, wood wares and toys. The notification adjusted the tariff lines of raw materials for end-product manufacturing in electronics, chemicals, automobile, furniture, toys, rubbers and plastic industries under the PROSEC programmes; and reduced the duty of goods covered in the Northern Border and Border Area Import Program, classified under tariff items 87032102, 87032202, 87032302, 87032402 and 87043105.

Tariffs on pencils, hedge clippers, bimanual pruning shears and other bimanual scissors have been reduced to 15% from January 1, 2010. Products under the following tariff items are exempt from import duties: 29036201, 29036202, 29362905, 33011906, 37019902, 37024101, 38112106, 38112906, 38249058, 38249061, 38249067, 38255001, 39269034, 39269035 and 44081001.

2.1.2 Import Administration

The *Foreign Trade Act* (FTA) is the basic law governing import administration system in Mexico. *The Customs Law* and *General Import and Export Taxes* also play in important role in this respect. The Ministry of Economy is in charge of foreign trade, with International Commerce Negotiations Undersecretary, Standardization, Foreign Investment, International Commerce Practice Undersecretary and Industry Commerce Undersecretary as its subordinates responsible for specific import administration works.

2.1.2.1 Import Bans

According to Mexico's *Imports and Exports Tariffs*, issued on *the Federal Official Gazette*, imports are prohibited under the following tariff items: 03019901, 12089003, 12099907, 12119002, 13021102, 13021902, 13023904, 28332903, 29035903, 29035905, 29109001, 29310005, 29391101, 30034001, 30034002, 30039005, 30044001, 30044002, 30049033, 41032002, 49089005 and 49119105.

2.1.2.2 Tariff Quotas

In September 2009, Mexico's Ministry of Economy opened an additional sugar import quota of 300000 metric tons. The total sugar import quota amounts to 900000 metric tons, of which 450000 tons have been fulfilled. Based on Mexico's bilateral trade agreements, 10% of its white sugar (i.e. 45000 metric tons) will be imported duty free from Nicaragua; others will be imported from countries based on its industrial needs.

On December 11, 2008, Mexico announced a specific tariff quota for toys，games and sports requisites under the following tariff headings: 95030001, 95030002, 95030003, 95030004, 95030005, 95030006, 95030007, 95030008, 95030009, 95030010, 95030011, 95030012, 95030013, 95030014, 95030015, 95030016, 95030017, 95030018, 95030019, 95030020, 95030021, 95030022, 95030023, 95030024, 95030026, 95030099, 95043099, 95044001, 95049001, 95049002, 95049004, 95049006, 95049099, 95059099, 95065999, 95066201, 95066999, 95067001, 95069906 and 95069999. While that TRQ is still limited to companies that manufacture toys in Mexico either directly or through an indirect producer that is authorized to use the label, the Mexican government has eliminated a previous requirement that those manufacturers use domestically-produced or imported raw materials, parts, components and accessories classified under HTSMX 95030027, 95030028, 95030029, 95030030, 95030032, 95030033, 95030034, 95030035, 95041003, 95043001, 95049005, 95049004 and/or 95069102 in their manufacturing activities. The TRQ allocation standards have also been amended and are now as follows: the annual TRQ for toy producers will equal the producers' average revenue from domestic toy production over the previous two years, subject to a US$50 million cap. The TRQ for committed toy investors will equal 100 percent of the estimated annual value of toy manufacturing operations during the initial three-year period, subject to a US$50 million limit. Fifty percent of this TRQ will be allocated after the investment project is submitted and the remaining 50 percent will be allocated as the project progresses. These measures are effective from December 11, 2008 and end in December 31, 2014.

2.1.2.3 Import License

Imports subject to prior licensing administration include petrochemicals, engines, large transport automobiles and cars, armaments, office equipment, etc. Prior licensing is also required for products under Mexico's preferential agreements, and for spare parts and mechanics under the PROSEC program. The license is non-transferrable and stands good for a year.

2.1.2.4 "Standard Price"

Starting October 2000, the Mexican government imposed a guarantee system for goods subject to "standard prices". Importers have to provide cash guarantees for the price difference, and give plausible explanations if the declared value of imports is less than the reference price. The decree of March 31, 2008 eliminated the system of reference pricing for all products with the exception of used cars. From April 14, 2008, no deposit or any other form of payment is required of importers. China shows concerns on the implementation of this system.

2.1.2.5 Others

Mexico's Northern Border and Border Area Import Program permitted the imports of used tires for passenger cars or trucks, transformers, static converters, telephones and microphones to regions of Baja California and Baja California Sur.

Companies under the PROSEC Program enjoy a preferential tariff of 0-5% when importing goods or specific raw materials from non-NAFTA countries. The program covers 22 major industrial sectors including electronics, toys, shoemaking, mining and metallurgy, capital assets, agricultural machinery, chemical, rubber and plastic, iron and steel, manufacturing of pharmaceutical and medical equipments, paper and cardboard, leather products, automotive and spare parts as well as textiles.

2.1.3 Export Administration

FTA and its regulations, *Customs Law* and *General Import and Export Taxes* are the major reference for export administration in Mexico. Mexico's Ministry of Economy issues export license and establishes the export promotion system.

The *Mexican* Bank for *Foreign Trade* (BANCOMEXT) promotes export by training and assisting small and medium-sized firms in export regulations and trade administration targeted at different markets. The ProMexico has been established to promote exportation by giving advice and assistance to small and medium-sized Mexico exporters. It will replace the role of BANKCOMEXT in terms of export promotion.

2.1.3.1 Export Prohibitions

Mexico prohibits the export of certain goods including products of animal origin, plants, narcotics and archaeological goods. The HS tariff headings concerned are: 03019901, 03026902, 03037901, 04100001, 12079101, 12089003, 12099907, 12119002, 13021102, 13021902, 13023904, 28332903, 29035202, 29035905, 29109001, 29310005, 29391101, 30034001, 30034002, 30039005, 30044001, 30044002, 30049033, 41032002, 49089005, 49119105, 97050005

2.1.3.2 Export License

The Ministry of Economy requires an export license *prior* to the filing of FTZ admission documents for exports under 16 tariff items (eight-digit) as follows: 27090099, 27101104, 27101904, 27101905, 27101907, 27101908, 27101999, 27111201, 27111301, 27111901, 27111999, 27112999, 27122001, 27129002, 27129004 and 27129099. These items include crude oil and oil extracted from asphalt; petroleum and oil extracted from asphalt (crude oil excluded); petroleum gas and other hydrocarbon; paraffin (with less than 0.75% oil content); microcrystalline wax; cherry; and others. Exporters of these products may apply for an advance license at the Ministry of Economy.

2.1.3.3 Export Promotion

Mexico introduced the Foreign Trade and Investment Promotion Program to attract foreign investments; the basic policies of doing so are set in *the National Development Plan (2006-2012).*

The Joint Export Promotion Commission (COMPEX) promotes Mexican exports, streamlines administrative procedures and assists exporters (mostly small and medium-sized firms) in overcoming technical barriers by means of establishing a dialogue mechanism between exporters and government officials. Small and medium-sized firms are the major beneficiaries.

The National Scheme for Guidance to Exporters (SONE) is another promotion instrument that provides information, free guidance and advice on export opportunities to companies through 62 advisory units throughout Mexico.

Some states in the Mexican Republic also have programmes specifically designed to promote exports by providing technical assistance, advice and help in identifying sales opportunities abroad; these include the states of Baja California, Durango, Guanajuato, Jalisco, Morelos, Puebla, Querétaro and Veracruz.

2.1.3.4 Export Financing Service

Mexico's National Foreign Trade Bank (BANCOMEXT) grants loans (short-term, medium-term and long term), insurance and guarantees and for both direct and indirect exporters, directed at encouraging the small and medium-sized Mexican exporters. BANCOMEXT's service include: granting loans to exporters needed in operation, marketing and export-related investments; providing indirect guarantees for financing and guarantees before or after the operation; facilitating financial services for exports, such as credits and trust funds. Exporters of agricultural products, electronics and architectural materials are the major beneficiaries.

BANCOMEXT grants financial guarantees through commercial banks and political risk guarantees (or post-export guarantees) by disbursing money directly to the exporter to prevent foreign buyers' failure of payment due to political reasons.

The Mexico National Finance Company is another development bank to promote exports by financing projects of foreign trade.

2.1.3.5 Others

Starting 2008, Mexico issued *a Decree to Promote the Manufacturing, Maquiladora and Exportation Services Industry* (IMMEX), modifying the old Maquiladora program (renamed as *Program of Manufacturing, Tax-free Assembly and Exportation Service*) and repealed *the Temporary Importation Program for the Production of Articles for Export* (PITEX). This new program now known as IMMEX consolidates in just one document both Maquiladora and PITEX. Under the new Maquiladora program, raw materials, components and parts may enter Mexico on a temporary duty-free basis for manufacture or assembly and then be re-exported (when duties will be charged) without payment of VAT.

2.1.4 Trade Remedy Measures

The legal framework of Mexico's anti-dumping measures includes *Ley de Comercio Exterior* (LCE) and its regulations (1993) , related regulations of WTO, and regulations of anti-dumping and countervailing as defined in bilateral or regional free trade agreements (such as NAFTA). LCE and its regulations aim at improving the Mexican manufacturers' competitiveness against foreign exporters by establishing a trade protection system against dumping and subsidies of imports. The law defines the procedures of anti-dumping investigation, anti-dumping sanctions, countermeasures, and investigation of industry injury.

According to Article 31 of LCE, normal value refers to the domestic price of the country of origin, i.e. the comparable price of the same or similar products sold within the market of country of origin. It can be replaced by “export price to a third country” if the same or similar product is not available in the market of the country of origin. Or in other cases, replaced by constructed value, i.e. the total amount of production cost, expenses and reasonable profit in the country of origin. Mexico usually refers to the export/domestic price of a surrogate country in determining the normal value of a product if it is from a non-market economy. If the same or similar product is not found in a surrogate country of market economy, Mexico will refer to the price of similar products sold in its own market.

International Commerce Practice Undersecretary (UPCI) of the Ministry of Economy administrates anti-dumping and countervailing investigations, determines the corresponding duties, and makes the final determination of dumping, subsidy and material injuries. UPCI also assists Mexican firms, by means of giving advice and analyzing the trade remedy measures, in their involvements in anti-dumping and countervailing cases abroad.

The legal frame of safeguard measures includes the *Foreign Trade Law* and its regulations, *Safeguard Measures Agreement of the WTO*, and related clauses of the free trade agreements Mexico has signed to, as well as the Decree No.70 of the *Latin American Integration Agreement.*

2.1.5 Other Regulations

2.1.5.1 Government Procurement

The main pieces of legislation that regulate the government procurement in Mexico are: Article 134 of the Constitution; related clauses of the free trade agreements Mexico has signed (state and municipal government excluded); the *Law on Procurement, Leases, and Services by the Public Sector* (LAASSP) and *the Law on Public Works and Related Services*(LOPSRM)

The Mexico Ministry of Finance and Public Credit (SHCP) makes the budget for *the Annual Purchasing, Leasing and Services Programs*, and *the Annual Public Works Programs*. The Ministry of Economy edits the Programs and publishes them online. The Ministry of Public

Administration is the sole agency to supervise and investigate into the illegal practices of government procurement and public projects. It works to make the government procurement regime more transparent through policy making.

There are two broad types of procedures of government procurement in Mexico: open tendering and restricted tendering. Open tendering is further divided into "national" and "international". In a national open bid, only Mexican bidders can tender and the desired goods are produced in Mexico with at least 50% local content. An international bid under the treaty is attended by bidders from signed countries and Mexican bidders, where the goods provided by the international bidder should abide by the rules of country of origin as specified in the treaty they've signed. An open international bid is held where nationals from any country are eligible to participate regardless of the country of origin of the desired goods. In a restricted bid, procurement may be achieved by selective processes of inviting competitive suppliers to tender. Notification of international bid is published on *the Official Gazette* 40 days ahead of time. Relevant information is available online at the COMPRANET. The government's procurement plan of the year is published annually before November 30 of the previous year.

Aggrieved suppliers may submit bid challenges in writing, within 10 working days from when the basis for the complaint became known, to the competent department (SECODAM). This office will review the complaint and may take such actions as nullifying the tendering procedure, issuing recommendations to correct the procedure that allowed the irregularity to occur, or dismissing the complaint if invalid.

2.1.5.2 Participation of International Companies in Project Contracts

Mexico's *Law on Public Works and Related Services* (LOPSRM) provides the legal framework for the definition of projects and the function of government in public bids. Tendering of public infrastructure projects are held by the government; while for such monopolized industries as petrochemicals and electricity, tendering procedures are held by the monopolistic state-owned companies under the supervision of competent government bodies.

The LOPSRM doesn't set restrictions for international bidders in local tendering, but according to its regulations and actual practice, public projects are open only to countries that have signed free trade agreement with Mexico, or to those covered by the regional trade cooperation agreement. Those countries have a better chance to compete in private investments too.

Foreign companies are eligible for bidding only after registration at the Ministry of Economy and the Ministry of Finance to become a local company. Bidders for public infrastructure projects in monopolized industry (petrochemicals, electricity, etc) have to be authorized by the Mexico Petroleum Co. and the Federal Electricity Commission. Legalities concerning foreign contractors are *the Law on Public Works and Related Services* (LOPSRM) and *the Law on Procurement, Leases, and Services by the Public Sector* (LAASSP). LOPSRM applies to general contracts and related services, requiring that the contractor's net assets must be more than 10% of its bidding price. LAASSP applies to the procurement, leasing and services of public projects without requirement of net assets on the contractor.

A recent bill of energy reform passed by the Congress entitled the Mexico Petroleum Co. the right to assess international tenders on an exploration program.

2.1.5.3 Certification and Standardization System

The Federal Law on Metrology and Standardization provides the legal framework of measurement standard and conformity assessment. Products, services and related processes and installation must comply with Mexico's mandatory standards, so are the corresponding imports of similar goods and services. Corresponding importers, manufacturers, dealers and distributors are advised to conduct a conformity assessment to determine whether their products comply with the applicable standard.

Mexico has two broad types of standards, Mandatory Standard (also referred to as Official Mexican Standards, or NOM) and Voluntary Standard (also referred to as Mexican Standards, or NMX). NOM majorly covers such areas as safety, health, environmental protection, telecommunication, customer information and energy efficiency. Products subject to mandatory certification must be tested at authorized institutes before import. For countries where Mexico has *Mutual Recognition Agreement* (MRA), the certificate can also be issued in the foreign customer's name. Importers must submit to the certification body the testing reports together with technical and legal paperwork as applicable. Certification of products subject to NOM must be issued by DGN-authorized institutions.

NMX serves to provide guidance for consumers and manufacturers, and to improve the quality of related goods and services. NMX becomes mandatory when applied as a reference to NOM in government procurement.

The Dirección General de Normas (DGN) issues NOM and regulations, establishes and implements technical specifications, and approves annual plan of NOM. NOM can be published by Mexican Ministry of Economy, Ministry of Health, Ministry of Labor, Ministry of Environment, Ministry of Energy, Ministry of Agriculture, Ministry of Transportation and Communications, as well as Ministry of Social Development. NMX, at the same time, is established by the Standard ONN.

2.1.5.4 Transitional Measures of Some Goods Imported from China

Mexico used anti-dumping measures against many Chinese products, 1310 tariff headings under 21 categories, before China's entry into the WTO, and did not review each Chinese product in conformity with stipulations of WTO. For example, the Mexican Ministry of Economy, with only one review on shirts instead of reviews on all other apparels products, may declare an anti-dumping duty on all Chinese textiles. Mexico has committed to have the measures lifted gradually after China's accession and to bring its existing anti-dumping measures in conformity with the WTO Anti-dumping Agreement. The transitional period is 6 years. During the 6 years of transitional period, Mexico has eliminated the anti-dumping duty on 4 categories of Chinese products. In the second half of 2007, Mexican Ministry of Economy started anti-dumping administration reviews on the rest products and would decide to eliminate or maintain the present antidumping duties based on the result of reviews. The reviews that have started are related to locks, footwear, candle, pencil, lighter and tools.

Mexico signed *Transitional Agreement on Trade Remedies between the People's Republic of China and the United States of Mexico* on 1st June 2008 to eliminate the anti-dumping duties on a wide range of imports. On 14th October 2008, Mexico issued *the Transitional Agreement on Importing Certain Goods from People's Republic of China* and announced that Mexico would maintain high tariffs on 204 designations of sensitive goods in the transitional period (from October 15, 2008 to December 11, 2011), covering 112 tariff headings for garments, 26 headings for footwear, 14 headings for textiles and 13 headings for toys and game products. However, the duties will be reduced annually. Based on *the Transitional Agreement on Importing Certain Goods from People's Republic of China,* toys and Christmas decorations under the following

HTSMX numbers 95030001，95030002，95030003，95030005，95030006，95030010，95030018，95030019，95030023，95030099，95049006，95051001 and 95059099, are levied 15% for in-quota products and high tariffs listed in the transitional agreement for over quota products. These items are given a yearly quota of USD 185 million, and are offered a 5% yearly increase in the transitional period from December 18, 2008 to December 11, 2011.

Starting from December 12, 2009, the tariffs imposed on Chinese imports are reduced from 130% to 120% for garments and textile accessories; from 100% to 90% for some fibers and yarns; from 85% to 80% for some chemicals; from 95% to 90% for footwear; from 113% to 108% for items under Section 84; from 90% to 80% for some locks; from 87.5% to 75% for toys and game products; from 300% to 275% for pencils; and USD 0.12 to USD 0.115 per item for disposable lighters. Transitional duties remain unchanged for certain items: 103% on candles under Mexico Harmonized Tariff Schedule (HTSMX) 34060001; 129% on ballast under HTSMX 3406.0001 and HTSMX 85041099; 129% on electric devices under HTSMX 85015204, HTSMX 85015304 and HTSMX 85159001.

2.2 Investment Administration Regime and Its Development

The legislation concerning foreign investment are Article 73 of *the Constitution*, *the Foreign Investment Law* (LTE) and its regulations. Investment in ordinary industries need not to be pre-approved but all the foreign investments and capital inflows are required to register with the Foreign Investment Register of the Ministry of Economy. Delayed registration is subject to fine or sanction. The National Foreign Investments Commission (CNIE), composed of ten ministers and chaired by the Minister of Economy, issues policies on foreign investments, establishes investment promotion mechanism, and approves the terms and conditions for foreign investment access. CNIE approval is required for foreign investment exceeding 49 % of the enterprise’s equity. Applications without replies within 45 working days will be assumed as approval from the CNIE.

2.2.1 Investment Promotion Policies

Apart from the preferential policies of the Federal government, foreign investors can benefit from favorable terms from governments at provincial levels. Foreign investments are allowed in 704 industries of the 754 under the Mexican Activities and Products Classification (MAPC), 66 of which allows up to 100% foreign ownership. Other items are regulated under the LTE. With few exceptions, investors are permitted to buy additional fixed assets, enlarge or relocate factories, invest in sectors different from the existing one, or add new production lines. Revenues, dividends, interests and capitals of foreign-funded enterprises enjoy free international flow.

2.2.2 Investment Restriction and Prohibition

Section 5 of LTE prohibits foreign investment in 11 industries including petroleum, petrochemicals, electricity, nuclear energy power generation, radioactive minerals, telegrams and postal service. Regulations of the LTE specify the terms and conditions of these prohibitions such as: the prohibition of investment in electricity industry does not apply to private power generation in special cases.

Mexico reserves certain activities for Mexican nationals, and firms with a "foreigners exclusion clause". The reserved activities are: domestic land transportation of passengers, tourism and freight (excluding messenger and express delivery services); retail sale of gasoline and distribution of gas; broadcasting and other radio and television services (with the exception of cable television); credit unions; development banking institutions; and professional and technical services expressly reserved by sector-specific legislation. However, starting from January 1, 2004, Mexico opened some of its reserved sectors to up-to-100% foreign ownership with no need for application. These include domestic land passenger and freight transportation, tourism transportation, bus stations and services, auto parts assembly and manufacturing.

In addition, Mexico limited foreign equity ownership to 25% in domestic air transport, airport taxi services, and specialized air transport；up to 49% ownership for insurance, bond, and financing institutions, and franchised companies established on the basis of Article 11 and 12 of *the Mexico Federal Telecommunications Law*.

CNIE approval is required to allow foreign investment to exceed 49% of the enterprise's equity in the following sectors: port services for ships engaged in inland navigation operations, such as towing, mooring and lighterage; shipping companies engaged in the operation of ships solely for high-seas traffic; concessionaires or permit-holders for aerodromes for public service; private education services, from pre-school to high school levels; legal services; credit information companies; securities rating institutions; insurance agents; cellular telephone services; the construction of pipelines for petroleum and refined oil products; the drilling of petroleum and gas wells; the construction, operation and exploitation of railroads considered as a means of general communication; and the supply of public railway services.

2.2.3 Other Policies and Measures Concerning Investment

In August 2009, PROMEXICO announced the inauguration of 21 projects worth USD 2.25 billion within the next three years to attract FDI and boost the economy. These projects cover such sectors as domestic automobile manufacturing, airport construction, tourist hotels, infrastructures and power construction.

The Minister of Economy announced in July 2009 the establishment of a 17-billion-peso special fund to promote the development of small and medium-sized enterprises (SME). The fund will be primarily used in the budgetary government procurement 2009, mostly products manufactured in Mexico. The government also offers a range of preferential policies to encourage the participation of SMEs. Such incentive measures include: streamline processes of quotation and investigation; raise the deposit to 50% of the payment; shorten the span of installment; and increase the transparency and openness of procurement.

2.3 Trade and Investment Related Administration and Its Development

2.3.1 Fiscal Reform Plan

The Mexico Congress passed on October 19 2009 a package plan of fiscal reform to increase state revenue by raising taxes, effective from January 1, 2010. The plan agreed to increase, in 2010, value added tax (VAT) for finished goods by one percentage point to 16%; cooperate income tax to 30% ; deposit interest income tax to 3%; and deposit threshold to 15000 peso (equivalent to USD1153.85). The tax increase is focused on sectors of consumer goods and services; the security business will benefit from a temporary income tax exemption.

2.3.2 Cooperate Registration

Mexico put into place a new policy of cooperate registration in 2009 to attract investment, offering the service online at *http://www.tuempresa.gob.mx* for submission of required documents prior to registration at the Notary Office. The policy substantially reduce the time and cost of cooperate registration. Currently 10 Mexican states of the 32 have implemented such procedures. However, the online services do not apply to all kinds of registrations.

2.4 Technical Trade Measures Issued in 2009

2.4.1 Toys

The technical standard, NOM-015-SCFI-2007, entered into force on January 17, 2009. The new regulation amended the previous labeling requirements for toys by requiring the commercial information and electric power features to be shown on the battery of toys. The regulation requires signs of warning on small components of toys designed for children under five; and toys intended for children aged below 3 must contain no small parts. Information concerning the toy must be truthfully displayed on the package in Spanish in conformity with the measuring requirements of NOM -008-SCFI-2002. It must be presented in a manner which will not mislead or deceive the consumer concerning the nature and features of the toys. Such information may also be declared in another language according to some other unit measurement system.

2.4.2 Chamico-pharmaceuticals

On February 10, 2009, the Ministry of Economy issued *NOM 059 SSA1 2006: Good Manufacturing Practices for Establishments in the Chemico-pharmaceutical Industry Engaged in the Manufacture of Medicines* (amendment to Mexican Official Standard NOM-059-SSA1-1993, published on July 31, 1998). For all the medicines marketed in Mexico, compliance with this standard must be demonstrated and documented.

2.4.3 Herbal Remedies

On May 5, 2009, Federal Commission for Health Risk Protection of Mexican Ministry of Health published the notification G/TBT/N/MEX/174 titled *Draft Mexican Official Standard PROY-NOM-248-SSA1-2006: Good Manufacturing Practices for Establishments Engaged in the Manufacture of Herbal Remedies*. The draft sets forth the minimum requirements for the processing of herbal remedies marketed in Mexico. The draft Standard is binding throughout Mexican territory on all establishments engaged in the manufacture, storage and distribution of herbal remedies for human use which are marketed in Mexico. The draft standard has entered into force 180 days after publication in the *Official Gazette*.

2.4.4 Distribution Transformers

On August 7 2009, Ministry of Energy published *Draft Mexican Official Standard: Safety and Energy Efficiency Requirements for Distribution Transformers*. The notified draft Standard lays down the minimum safety and energy efficiency requirements for distribution transformers and the testing methods for verifying compliance with these requirements. The standard applies to the following types of domestically manufactured or imported distribution transformers intended for the end consumer and marketed in Mexico: pole-mounted, substation, pad-mounted and submersible which are self-cooled using insulating fluid. It also applies to distribution transformers which are repaired, rebuilt or reinstalled. The date of implementation is yet to be decided.

2.4.5 Tortilla-making Machines

In June 2, 2009, Ministry of Energy published *Draft Mexican Official Standard PROY-NOM-019-ENER-2006, Thermal and Electrical Efficiency of Mechanized Tortilla-making Machines: Limits, Test Methods and Marking*. The draft establishes the maximum consumption levels of electricity, liquefied petroleum gas and natural gas, the test methods that must be applied to verify such consumption, and cooking times, number of kilograms of tortillas per hour and marking requirements for mechanized tortilla-making machines used to prepare corn and wheat tortillas.

2.4.6 Household Electric Washing Machines

In December 2009, Mexico Ministry of Economy proposed to amend its Standard: *Energy Efficiency of Household Electric Washing Machines: Limits, Test Method and Labeling*. The Amendment established the minimum consumption levels of energy (i.e. the consumption of water per kWh in each washing cycle): Automatic washing machines of less than 45.3-liter capacity with vertical axis: 0.65 L/kWh/cycle; Automatic washing machines of over 45.3-liter capacity with vertical or horizontal axis: 1.26 L/kWh/cycle; Semi-automatic and hand-operated washing machines: 3.78 L/kWh/cycle. In addition, the following information is required on the package of such washing machines: brand; model number; classification (auto, semi-auto, or manual), minimum level of energy consumption; energy consumption in actual use; and comparison of energy saving features with similar goods.

3. Barriers to Trade

3.1 Tariff and Tariff Administrative Measures

3.1.1 Tariff Peak

In 2008, Mexico’s simple average MFN tariff of agricultural products was 22.9%, notably higher than the 11.1% of non-agricultural products. The simple average tariff rate was 41.2% for animal products; 39.1% for dairy products; 63.9% for sucrose and confectionary products; 35% for garments. The simple average MFN tariff of agricultural products is notably higher than the average tariff rate 12.6% of 2008.

Mexico continues to tax over 50 types of agricultural products at a rate of over 100% in 2009: 254% for poultry fat, pork fat, animal and vegetable oil, fat and its fraction; 245% for fresh or frozen potatoes; 234% for fresh or frozen poultry and edible offal; 210% for fructose, chemically pure fructose, and fructose syrup; 194% for maize and malt; 140.4% for coffee extracts and products with coffee as major content; 125.1% for decapsulated beans, powdered or granular dairy products; 125% for cheese and curd; 115.2% for barley; and 50% for automobile and its spare parts.

3.1.2 Tariff Escalation

Mexico continues to impose low tariffs on raw materials of textiles-- less than 10% on average and zero on chemical fibre filament. Duties on items under the following Sections of Mexico's Custom Tariff are as high as 35%: Section 61 (knitwear, crochet and accessories); Section 62 (clothes other than knitted or crocheted and their accessories); Section 63 (other types of textiles, complete set of clothes, used clothes and rags, scraps and waste).

The average tariff rate is 5.8% on peltry and leather, covering 65 8-digit tariff items; 29.33% on leather products, saddles and harness, as well as finished products such as handbags, covering 33 8-digit tariff items. Most finished leather products are dutiable at 35% on average, 23.52% higher than that on raw materials.

3.1.3 Tariff Quota

There are a series of quota policies in Mexico, products under control are mostly agricultural products like poultry, animal fat, milk powder, cheese, French beans, tomato, coffee, wheat, barley, corn and products with high sugar content. The tariff is zero for in-quota milk powder but 125.1% over quota; 50% for in-quota cheese and 125% over quota; 50% for in-quota meat and offal, 234% for over-quota; 50% for in-quota animal fat and potatoes, 254% over quota; 50% for in-quota maize and 194% over quota; 50% for in-quota French beans (beans used as seeds as an exception) and 125.1% over quota; 50% for in-quota wheat and 67% over quota.

Article 24 of *the Mexico Foreign Trade Law* specifies the processes and principles of granting quotas, the majority of tariff quotas, however, are granted to a privileged few. For instance, the United States has acquired 99.9% tariff quota of maize, 97% quota of poultry, 94% quota of animal fat, 88% quota of French beans and 75% quota of cheese. Tariff quotas of agricultural goods are granted to signatories of FTA (excluding Bolivia, Colombia, Salvador, and members of European Free Trade Association), and the products covered varied from country to country.

3.2 Import Restriction

Mexico publishes on its Official Gazette tariff items that need import license, which are subject to constant change. In 2009, products under more than 100 8-digit tariff items are subject to import license administration, including petroleum products, used tires, used vehicles, fructose, used clothes, anti-contamination equipments, equipments for research, and products needed in the PROSEC Program. Used vehicles and used machines are granted license only when no substitutes are found in Mexican local market. China shows concern on this practice because it runs counter to Article 11 of *GATT 1994—Removal of Quantitative Restrictions and Licenses*.

3.3 Barriers to Custom Clearance

In May 2008, without prior notification of procedural changes, the Mexican government implemented a new requirement to test all chemical samples and shipments being sent to Mexico in gas, liquid, or powder form. Some chemical exporters are required to pay USD 500 to custom broker for custom clearance. The new requirement prohibited the sending of samples by express delivery, which put additional cost of using a broker on exporters. In addition, there is only one laboratory in Mexico certified to test these products, thus causing a huge delay in customs clearance. This practice has a negative impact on the competitiveness of Chinese exporters.

3.4 Technical Trade Barriers

Mexico has long had a requirement that for the sales of pharmaceuticals and dietary supplements, the importer must have a factory, laboratory, or some other facilities in Mexico. To help foster competition and bring down the price of drugs, the Mexican government issued a decree in August 2008 to lift this requirement in a phased manner. Application procedures for dietary supplements are not mentioned in the decree

Information of manufacturing and the importer’s tax registration is mandatory on labels of textile imports. The requirement is unreasonable since it’s hard for manufacturers to determine the importer before the process of labeling. In addition, Mexico has requirements different from international norms on product descriptions, washing and care indications, thereby importers will have to take costly relabeling procedures.

3.5 Trade Remedy Measures

Mexico has initiated 41 anti-dumping investigations against Chinese products by the end of 2009. As one of the top ten initiators against Chinese products, Mexico’s investigations majorly concern metal products (especially steel and iron); chemical and plastic products; textiles and clothing; machinery equipments; shoes, hats and toys. Anti-dumping investigations against Chinese products are specified in the following tables:

3.5.1 Anti-dumping Investigations

No.	Date of registration	Product covered	Custom Code where applicable	Progress of the case
1	**February 3, 2009**	**carbon steel nut**	**73181603, 73181604**	**Under investigation**
2	**September, 2009**	**seamless steel tube**	**73041902, 73041999, 73043906, 73043999**	**Under investigation**

On June 15, 2009, Mexican Ministry of Economy announced the result of its Anti-dumping Review on Imports of Canned Agaric (Tax Code 2003.10.01) from China, deciding to anti-dumping duties of USD 0.1809 per kilogram on canned agaric imported by Calkins & Burke Limited, effective from June 16 2009.

3.5.2 Questionable Practices in Mexico's Anti-dumping Investigations against Chinese Products

Mexico's refusal to recognize China as a market economy leads to its discriminative usage of surrogate country, a third country, or similar products of its domestic market in determining normal values. It referred to United States, Germany, Mexico, South Korea, Indonesia, and India as substitute countries in data collection with a tendency to overestimate and easily resulted in affirmative determination of dumping.

Based on LCE and its regulations, Mexico collects "credible data and evidence" in anti-dumping investigation and countermeasures with the tendency of using inflated data in the process of data collection. When data are hard to collect, it estimated the price with the practice of "reasonable mark-up", a loose term totally subject to the explanation of the Ministry of Economy. In addition, the UPCI is authorized to give "reasonable" and arbitrary opinions. Chinese side thinks Mexico has often taken its own way to initiate an anti-dumping investigation against Chinese products.

3.6 Government Procurement

Despite Mexico's efforts to increase the transparency and competitiveness of government procurement, there is still a need for improvement in specifying and implementing its regulations. The newly-established Internet site concerning government procurement, *Compranet*, need to be improved technologically.

3.7 Service Barriers

Investors now enjoy full access to the telecommunication market in Mexico. In 1994, Mexico government opened the mobile phone business, value-added service and special network business. In 1995, the revised *Mexican Telecoms Act* was issued to fully open the telecommunication market by creating a competitive market and establishing a multi-layer license regime. However, Mexico government still limits FDI in telecommunications to 49%, with mobile phone business as an exception, where investors can have more than 49% ownership with approval from the government. Mexico has yet to establish a virtually competitive telecommunication market given Telmex and its subordinate Telcel's clout in the landline business and mobile phone business.

The Economic Survey of M*exico* published by the OECD stated that Mexico remains one of the OECD countries with the highest telecommunications charges, especially for business and fixed-to-mobile termination charges. The survey suggests that for establishing a more competitive market, the Federal Telecom Committee need more independence in managing major telecom companies, and proposes the legislation of an act to put into practice a threshold price for market access. Despite the government's claim of its legislative efforts, the implementing of its policies remains a challenge since Telmex, the largest Mexican telecoms operator, continues to exercise influence over the legislative process, the congress, governmental policy departments, discouraging the legislative efforts to establish a competitive market mechanism.

4. Investment Barriers

Mexico has not yet opened its petroleum and natural gas market, except for liquefied natural gas (LNG) and petroleum products. Only Mexicans are allowed to own gas stations. Mexico Congress passed a bill of energy reform in October 2008, aiming at increasing the independency and transparency of PEMEX, the national petroleum company, but its executive regulations have not been concluded yet. The bill does not help much, however, in opening the petrol market to foreign investors.

Area located within 50 kilometers from any coastline, and within 100 kilometers from any Mexican Border is restricted zone to non-Mexican buyers. However, investors can have practical use of real estates within the restricted zone through the trust funds operated by Mexican banks. The National Foreign Investments Commission (CNIE) is responsible for examining foreign investments in restricted areas.