

Mexico

1Bilateral trade relations

According to China Customs, the bilateral trade volume between China and Mexico in 2006 reached US \$ 11.43 billion, up by 47.2%, among which China's export to Mexico was US \$ 8.82 billion, up by 59.3%, while China's import from Mexico was US \$ 2.61 billion, up by 17.10%. China had a surplus of US \$ 6.21 billion. China mainly exported datamation equipment and related parts, spare parts for apparatus or equipment like wireless telephone or radar, related parts mainly for typing and other office machines, integrated circuit and microelectronics constituent, transmission equipment for wireless telephone, telegraph, and radio and TV broadcast, transformer, static converter (rectifier for example) and inductance, printing circuit, optical instrument and device, microphone, loudspeaker, earphone, and audio frequency expander, etc. China's major imports from Mexico included spare parts mainly for typing and other office machines, copper waste fragments, spare parts for tractor truck, tractor, and passenger or cargo vehicles, non forged refined copper and copper hardener, copper ores and concentrate thereof, motor vehicles mainly for passengers, iron ores and concentrate thereof, aluminum waste fragments, datamation equipment and related parts, etc.

According to the Ministry of Commerce (hereinafter referred to as MOFCOM), by the end of 2006, the accumulated turnover of engineering contracts completed by the Chinese companies in Mexico was US \$ 1.31 billion, and the volume of the completed labour service contracts had reached US \$ 73.19 million.

According to the MOFCOM, Mexicans invested in 15 projects in China in 2006, with a contractual volume of US \$ 18.86 million and an actual utilized sum of US \$ 12.34 million. By the end of 2006, Mexico investors had accumulatively invested in 99 FDI projects in China with a contractual volume of US \$ 150 million and an actual utilization volume of US \$ 60.75 million.

2Introduction to trade and investment regime

2.1Trade administration and its development

The main laws and regulations governing foreign trade in Mexico include Article 131 of the Mexico Constitution, the Foreign Trade Act and its Regulations, Regulations

on Unfair International Trade Practices, the Law on Economic Competition, the Law for Acquisitions, Leases and Services, the Law for Public Works, the Customs Law, General Import and Export Tariff Law, the Law on Metrology and Standardization, and the Industrial Property Act, etc. The Foreign Trade Act (hereinafter referred to as FTA) is the basic law governing foreign trade in Mexico. The FTA, combined with other related laws, regulates and adjusts Mexico's foreign trade activities. The Ministry of Economy is in charge of foreign trade, responsible for making foreign economic and trade policies with other departments, such as the Ministry of Foreign Affairs, the Ministry of Treasury, and the Customs, etc.

2.1.1 Tariff system

Mexico promulgates its tariff adjustments to imported and exported goods in the form of Presidential decrees, which are published in the Official Journal.

In September 2006, Mexico published its adjustments to import and export tariff through the Official Journal. In line with the General Import and Export Tariff Act, which has made some adjustments to the applicable tariff item numbers and tariff rates of certain products, the Mexican government has adjusted accordingly the products related to the Northern Border and Border Area Import Program and the Sectorial Import Promotion Program in order to maintain the previous tariff level stipulated in the programs.

The Mexican government has cut the import tariffs of some products as well, for instance, the aluminum ingot used for make aluminum products, the pig feed and bird feed, and certain chemical raw materials. According to the adjusted tariff rates, zero export tariff is applicable to products such as the unexposed photographic sensitive hard cards and plane soft cards, shoes and boots parts, telephone and telex equipment, etc. Mexico has made adjustments to the export tariff in the hope of maintaining the competitiveness of certain Mexican industries, keeping its sustained development, and encouraging exportation.

The Customs Law of Mexico stipulates that an additional duty (also called a customs processing fee) shall be levied on all imported goods, and the rate is 0.8% of the declared FOB value. In addition, the Mexican Customs levies a 15% value added tax on most imported goods.

2.1.2 Import administration

As from 2003, Mexican corporations regularly engaged in import and export operations should file for a customs certificate with the Tax & Revenue Federal

Agency. The certificate must be renewed on an annual basis. The certified company will get the following benefits: conducting import export operations through any customs broker; simplifying customs and administrative procedures; filing preference for specific import licenses of goods.

In July 2003, the Strategic Private Bonded Warehouses (hereinafter referred to as SPBW) concept came into effect in Mexico. In August 2004, the defining administrative regulations regarding documentation and procedures were released. Under the SPBW system, foreign or domestic goods may be stored in confined spaces that are managed by private Mexican companies. In the SPBW, not only warehousing, display, sale, labeling, packaging or sampling activities are permitted, but also raw materials can be manufactured and transformed into finished products. Goods imported into Mexico and housed in an SPBW may remain in the SPBW for two years. Machinery, administrative equipment, furniture and general fixed assets may remain in the SPBW for as long as ten years. In addition, companies storing goods in a SPBW are not subject to the Bonded Area Processing Program or the Temporary Importation Program for Exportation. At the same time, foreign goods that housed in a SPBW are not liable for import tariffs or countervailing duties. They are not subject to VAT on importation or general excise tax for as long as they are not removed from the SPBW for definite importation into Mexico. Goods entered in a SPBW are not required to comply with non tariff regulations and restrictions or Mexican official stands, or national security standards.

In accordance with the Foreign Trade Act and its related regulations, the Mexican Ministry of Economy publishes the catalogue or list of commodities under licensing administration through the Official Journal. Since January 1, 2006, Mexico has adopted a new non automatic import licensing system to the sensitive goods, which has taken full use of computer technology and fastened the application information circulation speed. In October 2006, Mexico reclassified and codified some merchandise whose importation and exportation is subject to a requirement of a prior licensing permit from the Secretariat of the Economy in the purpose of reducing the type and number of products which are subjected to the non automatic licensing system.

All import and export operations must be conducted by a previously appointed customs broker. Importers must be registered with the National Importers Registry to be allowed to import goods into Mexico. In specific cases, importers of certain specific goods may need an additional license to import the goods.

2.1.3Export administration

Mexico strives to promote exportation, especially the exportation of non petroleum products. To this end, the Mexican Ministry of Economy has formulated and implemented many export promotion plans and made preferential

policies on exportation in terms of tax and administrative management.

On September 5, 2006, Mexico, through its official journal, adjusted the tariff item numbers of the products related to the “Sectorial Export Promotion Program”, which covered twenty two important industrial sectors, mainly including electronics, toys, shoe making, mining and metallurgy, capital assets, agricultural machinery, chemical, rubber and plastic, iron and steel, pharmaceutical and medical equipment, wood products, paper and cardboard making, leather products making, motor vehicle and automotive parts manufacturing, and textile. To facilitate the implementation of the program, Mexico has stipulated the list of imported goods. If the goods are on the list, the company should send application materials to the Ministry of Economy within a definite period before importing the goods.

2.1.4 Trade remedies

In January 2006, the Mexican Ministry of Economy made some amendments to the Foreign Trade Act. Meanwhile, the Ministry amended correspondingly Article No. 1, 3, 10, 16, 17, 20 and 25 of the Guidelines on the Implementation of the Transitional Safeguard Mechanism specified in China’s WTO Accession Protocol. It is stated that the General Administration of International Trade Practices under the Ministry of Economy shall conduct investigations on the Chinese products which are specified under the Transitional Safeguard Mechanism in the Protocol and adopt corresponding special safeguard measures. If the Mexican side requests for a negotiation and an agreement can not be reached with the Chinese side within 60 natural days, the Mexican Ministry of Economy may take measures like withdrawing concessions, or restriction (此处中文原文是“撤销减让或限制”而不是“撤消、减让或限制”) against China exported products under investigation in order to avoid or remedy market disturbance. The resolution of taking special safeguard measures should be submitted to the Mexican Foreign Trade Commission for consideration. The Mexican Ministry of Economy, based on the preliminary knowledge, can take temporary safeguard measures that include special safeguard duty, ad valorem tariff, prior license, quota or combination of them. The Mexican Ministry of Economy can decide to take transitional safeguard measures for 200 days starting from the day when the resolution of transitional safeguard investigation is published. This term can be extended if the circumstance calls for it.

In addition, the amendments to the Foreign Trade Act have revised the Mexican anti dumping investigation procedures. The time period between the publication of an anti dumping investigation case in the Official Journal and the making of the final award by the Ministry of Economy has been shortened to 210 days; inquiries must be made among domestic producers before approving or refusing importation or exportation of certain goods; the nomination of the agencies and the formulation of procedures with regard to the examination of tariffs and screening of new exporters;

the Ministry of Economy is authorized to conduct anti dumping investigations based on adequate evidence.

Article 5.8 of the Foreign Trade Act has been changed into: the Ministry of Economy is responsible for advising Mexican exporters involved in investigations abroad of unfair international trade practices and safeguard measures or in any other procedure that could result in an import restriction in other countries. Section 9 has changed into: the Ministry of Economy will coordinate the international trade negotiations with the competent departments and, at the request of the Ministry, with the productive sectors. Section 11 has been changed into: the Ministry should establish programs and mechanisms to foster and promote exports as well as corresponding provisions.

2.2 Investment administration and its development

The main law governing investment in Mexico is the Foreign Investment Law. In addition, some laws and regulations applicable to specific sectors, such as the Federal Telecommunications Law, the Natural Gas Regulations, the Railroad System Act, and the Port Act, etc, also set the terms and conditions for the accession of foreign investment.

The Foreign Investment Law stipulates that foreign companies are free to remit their profit, equity, dividends, interest and capital. In case of difficulties in the balance of payments, international transfers may be temporarily restricted by the Mexican government.

The Mexican Foreign Investment Law provides that unless specifically stipulated otherwise, Mexico allows foreign investors to invest in most of the economic sectors within its borders, even allowing solely foreign ownership in operation.

All the foreign invested firms must register at the Foreign Investment Registration Office under the Ministry of Economy; and a few foreign investment projects shall be subjected to the examination and approval procedure of the National Commission of Foreign Investment (hereafter referred to as NCFI). The NCFI should resolve applications submitted by foreign investors within 45 working days, otherwise, applications will be deemed approved. The Foreign Investment Law sets forth the criteria under which the Commission must perform its evaluations upon foreign investors applications. The NCFI is entitled to halt foreign investment projects when national security is concerned. The NCFI is responsible for dictating the policies on foreign investment and establishing terms and conditions applicable to participation of foreign investment.

In 2005, Mexico signed with China the Agreement between the Government of the People's Republic of China and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect

to Taxes on Income.

In 2006, China and Mexico conducted a number of negotiations concerning agreement on bilateral investment protection.

2.3 Measures on specific commodities

2.3.1 Measures on firearms and ammunition

In order to strengthen the control over the import and export of firearms, ammunition, explosives and its spare parts, the Mexican Ministry of Economy released public notice on October 20, 2005, which amended and supplemented the decree on firearms and explosives issued on November 25, 2002. It is made clear that the type of commodity governed by Article 1 of the Decree is the shell parts and airgun bullets under tariff item No. 9306.29.01 of the General Import and Export Tariff Act. Article 2 further includes phosphate and nitrate under tariff item No. 3105.51.01 and stipulates that only when these products are used to produce, assemble explosives or smoke and fire device are they subject to the decree. Article 1 entered into force on October 13, 2006 and Article 2 on November 25, 2006.

2.3.2 Hygiene measures on part of goods

In 2006, the Mexican Ministry of Economy and the Ministry of Public Health jointly released the applicable hygienic measures on imported porcelain, toys and teaching instruments. According to the stipulation, importers must submit the hygienic description of the imported products to the hygiene inspection and quarantine agency when they declare the above mentioned products, together with information like the 8 digit number of the imported products, product description, brand, model, name of the product, etc. The importers also need to submit the hygiene certificates or the original regions (countries) certificates of free trading issued by the concerned regions (countries) of origin.

2.3.3 Import measures against China produced chili

From January 1, 2006, the Mexican government has taken the following inspection and quarantine measures against the chili originally produced by China: a Certificate of Plant Quarantine issue by Chinese inspection and quarantine agency must be attached to the chili when entering the border and the place of origin of the chili must be stated; the exporter should go through the hygiene registration procedures in

advance at the inspection and quarantine agency in the place of origin and the registration number should be stated in the Certificate of Plant Quarantine; the chili should be clean from soil or other contaminants and packaged by new gunny bags with name, shipping mark, weight and lot number; the relevant information about the producer and packing factory should be stated in the Certificate of Plant Quarantine; when the chili is about to enter the border, the Mexican inspection and quarantine agency will carry out inspection at port and take samples to the government designated lab for check, the fees incurred shall be borne by the importer; before the release of the inspection result from the lab, the customs shall not let the chili pass; if the result does not meet the inspection and quarantine requirements, the chili will be returned to the country of origin or be destroyed at the entry port, the fees incurred shall be borne by the exporter; the Mexican Ministry of Agriculture will send personnel on an irregular basis to the origin place of the chili to check and inspect the quarantine situation. The authorized port of entry include Port Manzanillo and Port Veracruz as well as Nuevo Laredo, CD Juarez, and Mecicali along the borders of the US and Mexico.

2.3.4 Measures on diesel engine of motor vehicle

On May 1, 2006, the Mexican Ministry of Environment and Natural Resources published the emission standard of the new diesel engine, which is applicable to the diesel engine used by the new motor vehicle whose total weight is over 3, 857 kilograms. The standard sets the maximum emission limit in terms of the amount of hydrocarbon, non methane hydrocarbon, carbon monoxide, nitrogen oxide, particulate matter and the turbidity of the smoke emitted through the exhaust pipe.

3 Barriers to trade

3.1 Tariff and tariff administration measures

3.1.1 Tariff peak

In 2006 Mexico adjusted its tariff rates substantially. According to the 2006 Mexico customs tariff schedule, the products with high tariff rates include: the shelled poultry eggs (fresh, salty or boiled), with a tariff rate of 45%; passenger motor vehicles with more than 6 seats, cars, and cargo vehicles, with a tariff rate of 50%; part of poultry s (chicken, duck, goose, turkey and guinea fowl) fresh, cold, or frozen meat and edible entrails, with a tariff rate as high as 234%; part of fructose and fructose syrup, with a high tariff rate of 210%.

3.1.2 Tariff escalation

Mexico levies much higher average tariff on processed products than on raw

materials, and the most concerned industries are textiles, apparels, and leather.

In the leather industry, the average tariff rate of the rawhide and leather is about 5.9%, while the average tariff rate of leather products, saddlery and harness, and handbag can be as high as 31.45%. The average tariff gap between raw materials and finished products is 25.55% and the tariff rate for most of the leather products is as high as 35%.

The average tariff rate of the processed textile products is 35%, while the average tariff rate of the raw materials is only about 10%.

In 2006 Mexico maintained a low tariff rate for part of textile raw materials and even a zero tariff for raw materials like chemical filament, which further widened the gap between the tariff rate of the processed textiles and that of the raw materials.

3.1.3 Tariff quotas

In 2006, tariff quotas were implemented on 0.5% of the total Mexican subject goods. Among them, 5.2% of the agricultural products were affected by tariff quota, including poultry, animal fat, milk, cheese, beans, tomato, coffee, wheat, barley, corn and products rich in sugar.

3.2 Import restrictions

At present, Mexico conducts import licensing administration for certain imported goods, which include petrochemical products, motors, large freight vehicles and cars, weapons, office equipment, etc. The written application for import license must be accompanied by the quoted invoice issued by the foreign exporter, and the validity of the import license is 9 months and can be extended to another 3 months if necessary.

For used vehicles and used machines, the Ministry of Economy issues import licenses only when the foreign product has no domestically produced substitute. The tariff items of the products which are subject to import licensing are to be published in the Official Journal, but they are subject to frequent changes and lack predictability.

3.3 Customs evaluation

The Mexican government sets reference prices or officially established evaluation prices for some 200 types of goods, including categories of liquor, apparel,

chemicals, footwear, steel, hand tools, appliances, plywood, apples, rice, poultry, etc. If the declared customs value is less than the established reference price, a guarantee must be posted to explain the reason. The Mexican government has the right, within six months, to decide whether to start a formal investigation or to release the guarantee. These measures do not specify the process of verification or determination regarding the customs value of the imported goods, and therefore lack the corresponding remedy measures, thus bringing about possible unfair treatment to parties concerned.

The above mentioned practice by the Mexican Customs is inconsistent with relevant stipulations of the WTO Agreement on Customs Evaluation and impedes low cost imports from entering into Mexican market. China has kept a close watch on the development.

3.4 Discriminatory taxes and fees on imported goods

The Mexican government levies no tax on beverages made from Mexico produced cane sugar, but imposes a 20% soft drink tax on imported beverages that use soft drinks and any sweetener other than cane sugar. The services related to those products, for example, consignment, agency, etc. shall be levied a 20% distribution tax as well. In addition, the taxpayers of the above two taxes must also meet the bookkeeping requirements. Mexico's practice of imposing soft drink tax and distribution tax on imported soft drinks and syrups (final products), together with its bookkeeping requirements, was discriminatory and inconsistent with the national treatment in Article 3.2 and Article 3.4 of the GATT 1994.

3.5 Technical barriers to trade

In line with the 1992 federal law, Mexico introduced the qualification evaluation procedure. Since March 1994, the Mexican government has extended the number of products covered by the compulsory norms from 81 to 424. Imported products relevant to security, health and sanitation, environment protection, and energy must go through compulsory certification. Not only has Mexico revised its standards frequently, but also it has provided no transitional period for the amendments to the official standard, they enter into force next day after a temporary public notice is released. Mexico sometimes exercises stricter demand on part of imported products than on its own products and different ports may handle same goods in different ways. Mexican official norms are issued by different institutions; each institution has its own qualification evaluation procedure. As the Mexican government stipulates that only its domestic producer and importer can apply for Mexican official norm certification, which has caused additional burdens to the foreign manufacturers. Take the importation of toys for example, the producer can not directly apply for the

product certification, which can only be done by the importer and remain valid to the importer. If another importer imports the same product, certification will have to be done again. In addition, a certification procedure charges a high fee and may cause delay of importation.

The technical trade measures published by Mexico in 2006 include: the technical requirements and testing norms concerning life jacket, life buoy, and hydraulic bottle jacks, etc; the waste gas emission of the diesel vehicle, and the use of the fishing boat satellite monitor system, etc.

In September 2006, the Mexican government published new label regulation (NOM004 SCFI2006), which is applicable to apparels, garment auxiliary materials, and textiles. From now on, textiles, apparels or auxiliary materials exported to Mexico must be attached at the collar or waist or other obvious sections with clear permanent labels, which give information on country of origin, the producer, etc. The label language should be changed from English into Spanish.

3.6 Sanitary and phytosanitary measures

On February 2006 Mexico adopted the official standard of the Handling of Wood Packing Materials and the Use of Marks. The standard requires all the wood packing materials of the imported products should be smoked in advance (including heat treatment or smoked by potassium bromide) and marked with international recognized seal. The standard is almost in conformity with the NIMF No.15 (Standard of Wood Packing Materials Used in International Trade) made by the International Plant Protection Convention, while this international standard has listed a number of ways of smoking; the Mexican standard only listed two. If the Mexican Federal Environment Protection Bureau finds the wood packing materials of the imported products do not meet the standard, the importer is required to take the following three measures: immediate heat treatment or smoked by potassium bromide; unpack the wooden package under the supervision of the authority and change into Mexican local packaging; return the wood package of the imported goods to the export country.

3.7 Trade remedies

By the end of 2006, Mexico has initiated 36 anti dumping investigation cases against Chinese products, among which, 3 were newly launched in 2006. Mexico is one of the top ten countries in terms of the number of anti dumping investigations initiated against China.

3.7.1 Anti dumping

3.7.1.1 Newly initiated anti dumping investigations

In 2006, Mexico initiated 3 anti dumping investigations against Chinese seamless pipe, paint brush, and conventional electrode. The Mexican Ministry of Economy has decided not to impose temporary anti dumping duties on conventional electrode.

3.7.1.2 The follow up of the 2005 cases in 2006

In June 2006 the Mexican Ministry of Economy declared the final award of the anti dumping case involving China produced plastic pencil sharpener, an anti dumping duty of US \$ 10 per kilogram will be imposed on the product.

3.7.1.3 Anti dumping review

In May 2006 the Mexican Ministry of Economy declared to carry out the review award applied by Trading Specialties, S.A. de C.V, which eliminated the 312% anti dumping duty imposed on tools imported from China by the company.

In 2006 Mexico conducted anti dumping administration reviews on China produced locks, steel joints, textiles, weldment, synthetic and man made fiber and fabric, white mushroom, carbon ferromanganese, baby carriage, and wireless dust collector. It was ruled that an anti dumping duty of 236% would be imposed on China produced locks, which started from August 15, 2005 and would last for 5 years. An anti dumping duty of US \$ 2.07 per kilogram would be imposed on China produced locks. An anti dumping duty of 533% would be kept on textiles under tariff item Number 6, 101—6, 117, 6, 201—6, 217, and 6, 301—6, 310, which started from October 19, 2004 and would last 5 years. An anti dumping duty of 331% would be levied on products under tariff item Number 5, 201—5, 212, and 5, 301—5, 311. An anti dumping duty of 501% would be levied on products under tariff item Number 5, 401—5, 408, 5, 501—5, 516 and 402.49.05. An anti dumping duty of 54% would be levied on products under tariff item Number 3, 005, 5, 803, and 5, 911. An anti dumping duty of US \$ 0.247,6 per kilogram would be levied on China produced mushroom imported by Calkins & Burke Limited and the anti dumping duty imposed on other China produced mushroom would be maintained. An anti dumping duty of 54.34% would be imposed on China produced carbon ferromanganese. The anti dumping administration review on weldment would continue, and a temporary anti dumping duty of US \$ 2.07 per kilogram would be imposed on the said product.

In October 2006 the Mexican Ministry of Economy ended the anti dumping sunset review on China produced toys. It was ruled that an anti dumping duty of 258%—351% will be imposed continually on part of China produced toys, which started from November 25, 2006 and would last 5 years.

In September 2004 the Mexican Valve Manufacturing Association applied to the Mexican Ministry of Economy for an anti circumvention investigation against Chinese steel valves and asked for anti circumvention measures on similar products imported from the US. On July 2006 the Mexican Ministry of Economy ruled that no anti dumping duty of 125.96% would be imposed on similar products imported from the US.

3.7.1.4 The unfair practices in the Mexican trade remedy investigation

In 2006 Mexico amended the Foreign Trade Act and adjusted part of anti dumping, countervailing and safeguard measures. However, there are still unfair practices which mainly include:

According to the WTO Anti dumping Agreement, anti dumping investigation is conducted to determine whether the involved products are dumped during the investigation period. However, since Mexico selected an irrelevant time period to investigate the case, the result would not truly reflect the actual situation. This practice may lead to judicial decisions unfavorable to Chinese side.

The Mexican Foreign Trade Act specifies that all interested parties shall submit to the investigators their arguments, information and evidence within a period of 28 days from the day following the publication of the initiating resolution. By using the date of publication of the initiation notice instead of the date of receiving a questionnaire as the starting point for the time period for questionnaire responses, the Act in effect shortens the time period for the affected Chinese firms to make response. This practice on the part of Mexico is inconsistent with the unequivocal requirement in the Anti dumping Agreement and Agreement on Subsidy and Countervailing Measures to provide both parties with 30 days for them to respond to questionnaires.

The Mexican Foreign Trade Act coercively stipulates that the principle of “acquired facts” shall be applied to the producers who fail to respond to a lawsuit or to furnish information timely and properly or who have furnished incomplete information and that highest dumping margin shall be adopted. This stipulation is inconsistent with the Anti dumping Agreement and the Agreement on Subsidy and Countervailing Measures. The Mexican investigation bodies did not inform the affected exporters or producers of the consequence of not providing information or providing incomplete information. As a result, some affected Chinese firms, without knowing the consequence, had not provided or provided only incomplete information. These firms suffered a loss because they had been subject to the “acquired facts” and the

highest dumping margin meted out by the Mexican government.

Article 68 of the Mexican Foreign Trade Act stipulates that annual reviews can be applied to producers whose margin of alleged dumping or subsidization was found to be negative as the result of the original investigation. This is inconsistent with the Anti dumping Agreement and the Agreement on Subsidy and Countervailing Measures which clearly provide that an investigating authority should terminate the investigation “in respect of” an exporter found not to have a margin above de minimis. Owing to the unfair practice carried out by the Mexican government, anti dumping duties were imposed on some affected Chinese firms, even though their anti dumping margins were not positive.

The Mexican Foreign Trade Act enacts a provision to penalize any firm that imports products which are subject to investigation. This is not in conformity with the GATT 1994, the Anti dumping Agreement and the Agreement on Subsidy and Countervailing Measures.

The Mexican Foreign Trade Act stipulates that once the judicial proceedings against anti dumping or countervailing measures begin, the investigation body shall immediately terminate all the administration reviews, new exporter reviews or changed circumstances reviews, which should not be resumed until the completion of the judicial proceedings. This stipulation deprives the Chinese exporters of the rights to apply for reviews which they are entitled to enjoy in line with the Anti dumping Agreement and the Agreement on Subsidy and Countervailing Measures.

In addition, the Mexican authorities, in their anti dumping investigations, denied China’s market economy status. Subsequently, they have adopted the surrogate country method in determining the normal value of Chinese products. Article 48 of the Foreign Trade Act specifies the conditions for a country to be deemed as a market economy, but the stipulation leaves ample room for interpretation and a high degree of discretion to the Mexican government in anti dumping investigations.

3.7.1.5 The Fulfillment of Mexico’s Reserved Commitment to Anti dumping Measures as Described in the Protocol on the Accession of the People’s Republic of China

Mexico used anti dumping measures against many Chinese products before China’s entry into the WTO. 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 (until January 1, 2007). However, until the end of 2006 Mexico has still been exercising anti dumping measures against Chinese bicycles, shoes and boots, brass and bronze padlocks, baby carriages, baby beds, gas fuelled, non refillable lighters, some hardware tools, textiles, toys, pencils, apparels, some organic

chemicals, porcelain tableware and other wares, steel joints, candles, and wireless dust collector, locks, weldment, white mushroom, etc.

3.8 Subsidies

Mexico adopts the Countryside Direct Support Program, which means the government will allocate a certain amount of subsidy to the farmers according to the size of their actually cultivated land. After the local agriculture committee's check and confirmation of the area of cultivating land reported by the farmers, subsidy will be meted out in line with the government stipulated amount based on per unit area. Twice subsidies will be given if the land is cultivated twice in a year. Agricultural subsidies are allocated according to the actual output of the agricultural products, such as corn, rice, and sorghum, which are specified by the government. In addition, the Mexican government may set forth some other temporary subsidies according to the real situation and regional difference.

The Mexican government provides subsidies for farmers producing basic agricultural products through its "target income plan" every year. Other financial support schemes include supply of diesel oil and electricity. These schemes are trade distorted subsidies and belong to the amber box of the WTO Agreement on Agriculture.

Among the developing countries, only Mexico boasts a high ratio of 34% in terms of the ratio of amber box aggregate measurement of support to its total agricultural output. In other developing countries, it is on average less than 4%. Therefore, Mexican domestic agriculture is greatly supported by the government and its agricultural products can enjoy a competitive advantage over foreign agricultural products.

4 Barriers to investment

The Mexican government worked for improving investment environment in 2006. However, different regions adopt different laws and regulations in terms of property registration, which makes it very difficult for foreign investors to understand the relevant legal provisions. In addition, when starting a company in Mexico, the notarization fee, registration fee, and local licensing fee are charged and calculated according to the GDP per capita in each state, therefore, the fees charged by different states may vary from 6% to 65.8%.

In most of the Mexican states, registration fee is charged at a specific percentage and in line with the registered amount of capital, the more the amount of registered capital, the higher the registration fee.

Mexico restricts the ratio of foreign investment in its telecommunication industry. The highest ratio of direct foreign investment in companies providing telecom network and services is 49%. In the Mexican telecommunication market, the Mexican telecommunication company enjoys a dominant position and other foreign companies find it hard to compete with it.

The Mexican Labor Law stipulates that the ratio between foreign employees and Mexican employees in a foreign company should not be higher than 1 : 8. In principle, the company's technical personnel or professionals should be Mexicans, and only when there are no qualified Mexicans to fit the positions can foreigners be employed temporarily.