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Trade Policy Review Body

TRADE POLICY REVIEW

Report by the Secretariat

MEXICO

This report, prepared for the fourth Trade Policy Review of Mexico, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Mexico on its trade policies and practices.

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Document WT/TPR/G/195 contains the policy statement submitted by Mexico.

Note: This report is subject to restricted circulation and press embargo until the end of the first session of the meeting of the Trade Policy Review Body on Mexico.

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SUMMARY OBSERVATIONS

1. Since its previous Review in 2002, Mexico has continued with the gradual and unilateral liberalization of its trade regime. It has also concluded new free-trade agreements, now conducting 85 per cent of its trade with preferential partners. While preferential agreements have played an important role in Mexico's liberalization efforts, they have also altered economic incentives. At the same time, some barriers to MFN trade and foreign investment limit the access of Mexican consumers and producers to certain goods and services on more competitive terms.

2. In recent years Mexico's economic performance has been solid, and several sectors of its economy have achieved high levels of development. Nevertheless, per capita income has risen only modestly and alleviating poverty remains a challenge. Thus, steps to speed up productivity growth would seem necessary, such as increasing competition in the domestic market and establishing a more uniform incentive structure; the latter could include the rationalization of the MFN tariff and of special fiscal regimes. Further structural reform would contribute to reducing bottlenecks in areas such as energy, telecommunications and transport. Resolving these long-standing issues would help Mexico to take advantage of the significant progress already attained in order to accelerate growth and achieve higher living standards.

(1) ECONOMIC ENVIRONMENT

3. In 2006, Mexico's per capita income was around US$8,000, having increased at an average annual real rate of 1.7 per cent between 2001 and 2006. Over the same period, the average annual real increase in GDP was 2.3 per cent. After stagnating in 2001-02, partly because of the economic downturn in the United States, Mexico's economic growth resumed, boosted by internal demand and a favourable external environment.

4. Prudent fiscal management has allowed for the gradual consolidation of the federal budget and the reduction of the public debt to GDP ratio; measures are also being taken to lessen the dependence of public finances on petroleum revenue. Mexico has successfully implemented an inflation-targeting regime, maintaining inflationary expectations at around the objective of 3 per cent.

5. Despite the persistent and large deficit in the services balance, the current account deficit of the balance of payments has virtually disappeared, mainly because of increased family remittances. In 2006, trade in goods accounted for some 60 per cent of GDP. Growth in trade has been accompanied by changes in its composition and direction. For example, in value terms, petroleum exports have increased even though manufactures are still the predominant export. Imports from Asia, notably China, have risen significantly, although the United States remains by far Mexico's leading trade partner.

(2) TRADE POLICY AND INVESTMENT FRAMEWORK

6. Mexico is an original member of the WTO and considers that the multilateral system is the principal instrument for liberalizing global trade. It believes that the multilateral trading system and preferential agreements should be complementary, while acknowledging that there are certain issues on the trade agenda that can only be resolved in the multilateral sphere. In September 2003, Mexico hosted the WTO's Fifth Ministerial Conference in Cancún.

7. During the period under review, Mexico has made no fundamental changes to its internal legal framework or its trade policy. The latter is aimed at expanding and diversifying markets abroad, continuing to negotiate preferential agreements, and reinforcing the legal framework in order to attract foreign investment. Mexico recognizes that trade liberalization must be accompanied by other measures to boost competitiveness.

8. Mexico has submitted a large number of notifications to the WTO, but there have been delays in submitting others. Since 2002, under the WTO dispute settlement mechanism, Mexico has been involved in six cases as a complainant, seven as a defendant, and 27 as a third party.

9. Mexico has 12 preferential agreements with 44 countries; the agreements with Japan and Uruguay were signed during the period under review. Preferential agreements have led to the substantial liberalization of Mexico's trade regime. Nevertheless, their large number has altered economic incentives and the allocation of resources, and has made the administration of trade policy instruments more complicated.

10. Mexico sees the promotion of foreign investment as an essential complement to trade liberalization. No limits are set for foreign investment in activities not reserved or subject to specific regulations. However, some sectors are still reserved for the State, while others are reserved for Mexican capital, require a majority of Mexican capital, or prior approval before foreign participation may exceed 49 per cent of the total equity. Exceeding the limits set on foreign investment is permitted through the use of neutral investment (shares with no voting rights).

(3) MARKET ACCESS FOR GOODS

11. Mexico has lowered its simple average MFN tariff, from 16.5 per cent in 2001 to 11.2 per cent in 2007. Agricultural goods still receive higher tariff protection (23.0 per cent) than other products (9.9 per cent). The applied tariff is complex and tariff dispersion has increased. There is negative tariff escalation between raw materials and semi-processed products, which has led to inconsistencies in the tariff structure. These could be addressed by further reducing MFN tariffs and simplifying their structure.

12. Mexico has bound all its tariffs, at an average rate of 36.0 per cent, thus enhancing predictability; this could be further increased by reducing bound tariffs so as to narrow the gap of almost 25 percentage points between average applied and bound rates.

13. In the Uruguay Round, Mexico committed to allocate tariff quotas for a number of agricultural products, but reserved most of these for particular countries. Mexico also administers tariff quotas under preferential agreements and on an autonomous basis. Tariff quota administration is complex and lacks transparency; for most products, no procedures were established to allocate WTO-related tariff quotas in 2007. Mexico's most recent notification to the WTO on tariff quotas covered the period 1996-99. Domestic consumption requirements are applied in the allocation of tariff quotas for powdered milk and maize.

14. Mexico has adopted several measures to streamline foreign trade procedures but some procedures remain complex. This suggests the need to continue the process of customs reform and the simplification of foreign trade regulations. Customs valuation still involves the application of an estimated price mechanism to certain products, which involves the deposit of a guarantee when the declared value is lower than the estimated price.

15. Mexico uses both preferential and non-preferential rules of origin; the latter are aimed at preventing circumvention of contingency measures.

16. A customs processing fee is payable on imports, generally at a rate of 0.8 per cent of the customs value; preferential imports are not subject to this fee. Products such as used vehicles and clothing are subject to prior import permits with the aim, *inter alia*, of protecting the environment and public health. The prior notice mechanism for imports has been abolished.

17. Through anti-dumping measures, Mexican producers have actively sought protection against imports they deem to be unfair. Between January 2002 and

December 2006, the authorities initiated 42 anti-dumping investigations that resulted in the adoption of 24 definitive duties. In June 2007, 70 anti-dumping duties were in effect, concerning mostly products from China and the United States.

18. In general, the procedures for adopting technical regulations (Mexican official standards, NOMs) are clearly defined. In some cases, importers of products from countries with which Mexico has a preferential agreement may utilize the certification obtained by other importers of the same product. Goods subject to sanitary and phytosanitary measures must comply with NOMs, phytosanitary or animal health information sheets, and/or inspection requirements.

(4) MEASURES AFFECTING EXPORTS

19. Mexico promotes exports by granting tariff and fiscal concessions as well as administrative facilities. The major promotion instruments, the Maquila and the PITEX, were amalgamated into the IMMEX programme at the end of 2006. This programme grants fiscal benefits subject to compliance with minimum export requirements, unless preferential agreements provide otherwise. In addition to this scheme and the duty drawback, other programmes provide administrative facilities and/or financial support to companies meeting export requirements. Mexico has not made any notifications on new or updated (non-agricultural) subsidies since 2001.

20. Mexico also provides several export financing and guarantee schemes through development banks. After having incurred large losses, the leading export bank was reorganized in 2007.

(5) OTHER MEASURES AFFECTING TRADE

21. Since 2002, Mexico has implemented several sectoral promotion programmes (PROSECs) under which the beneficiary companies may import inputs at reduced tariffs in order to produce particular goods. As indicated in an official study, the PROSECs are not the best solution for offsetting the impact of MFN tariffs on the costs of companies importing inputs from non-preferential sources, inasmuch as their scope is limited and they involve administrative costs.

22. In addition to the PROSECs, there are many other government support programmes in specific areas. It would be helpful to analyse the extent to which the benefits derived from the various support programmes, including those oriented towards exports, offset their fiscal cost and the distortions they may cause among various activities.

23. Since its last Review, Mexico has strengthened its competition legislation and competition authority. Nevertheless, there are still monopolies and/or insufficient levels of competition in industries such as electricity, hydrocarbons, and telephony. Enhancing competition in these and other key sectors of the economy is one of Mexico's most pressing economic policy challenges.

24. Mexico is neither a signatory to nor an observer in the WTO Agreement on Government Procurement. Most government procurement takes place through tenders only open to Mexican persons and goods, or to Mexicans and foreigners from countries with which Mexico has signed relevant agreements. Although this could assist the domestic industry, it could also raise the cost of government procurement to the detriment of taxpayers.

25. In 2000, the TRIPS Council examined Mexico's intellectual property legislation and Mexico has notified subsequent amendments. In several areas, Mexico grants protection that exceeds the minimum periods laid down in the TRIPS Agreement. For example, copyrights were extended to 100 years in 2003. It would be useful to analyse how such an extension

achieves a balance between the economic interests of right holders and those of users.

(6) SECTORAL POLICIES

26. Mexico has continued the reform of the agriculture sector to improve its market orientation. There has been a reduction in the most distorting interventions and the efficiency of transfers to producers has been improved, but market price support and output-based payments still account for over half the support given to producers. It would seem necessary to introduce further reforms in order to facilitate the reallocation of resources among activities and achieve a sustainable increase in the sector's productivity.

27. The manufacturing sector has played a key role in Mexico's development and integration into the global economy. Nevertheless, in recent years the sector has lost part of its previous dynamism, owing both to cyclical factors and to a loss of competitiveness in international markets. The authorities are aware of these challenges and are considering implementing reforms to enhance competitiveness. Because of the large size and diversification of the sector, horizontal reforms that minimize the distortion of incentives would be particularly appropriate.

28. The Constitution provides that the State must be responsible for exploiting hydrocarbons and for generating and distributing electric power to the public. A heavy tax burden and consumption subsidies have meant that both the state-owned oil company, PEMEX, as well as the state-owned companies in the electricity sector, are facing significant difficulties in financing the investment required. It would therefore appear essential to carry out structural reforms that ensure their financial viability, increase their efficiency, and allow a better use of Mexico's energy resources.

29. In the services sector, Mexico made specific commitments in ten of the 12 sectors of the GATS. It adopted the Fifth Protocol on Financial Services and the Fourth Protocol on Basic Telecommunications, accepting also the Reference Paper on regulatory principles in telecommunications. In the context of the DDA negotiations, Mexico submitted an initial offer in 2003 and a revised offer in 2005.

30. In many cases, the market access provisions in Mexico's legislation and preferential agreements are more liberal than the commitments it undertook under the GATS. Mexico could enhance the predictability of its investment regime by closing this gap. This could help to attract foreign investment, boost economic growth, and lead to more uniform treatment between preferential partners and other WTO Members.

31. In the telecommunications sector, the traditional operator, TELMEX, still has a dominant position in key markets. Moreover, interconnection problems remain among operators, and the price of service is high. Foreign capital participation is limited to 49 per cent, except in the case of mobile telephony, where it may exceed this limit subject to authorization. Relaxing these restrictions could complement other efforts being made to improve the competitive environment.

32. In recent years, several reforms have transformed Mexico's financial sector, improving its regulation and supervision. Concurrently, commercial banking has seen significant internationalization. There are no restrictions on foreign capital participation in banks or insurance companies from countries with which Mexico has a free-trade agreement that includes a chapter on financial services. Foreign capital from other countries may have effective control of a bank but not of an insurance company. In general, insurance may be taken out with foreign insurance companies only if a firm established in Mexico cannot cover the risk.

33. Mexico's aviation market was dominated by a state-owned duopoly, but recent privatizations and the entry into the

market of low-cost airlines have led to a considerable increase in competition. Foreign investment is limited to no more than 25 per cent of the capital of companies providing scheduled domestic air transport services, and up to 49 per cent of companies managing airports.

34. There has been large-scale investment in modernizing the port infrastructure, but the authorities are aware that further progress is needed. Cabotage is restricted to shipping lines with a majority of capital held by Mexicans. International maritime transport is provided almost entirely by foreign shipping lines, nevertheless they may only participate if the ship's country of origin offers Mexico reciprocal treatment.

35. A professional licence is required in order to engage in a profession in Mexico. The licence is valid nationally and requires, *inter alia*, possession of a recognized professional qualification and completion of a social service. Some professional and technical services are reserved for Mexican nationals. The exercise of professions by foreigners is subject to the principle of reciprocity.