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Global Affairs & Trade Committee Meeting

Lubricants and Additives Mexico Update

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Summary Update

- **2013** – Energy Reform allowed import, marketing and distribution of all oil products
- **2018** – change in government results in new public policy for Energy Sector
- **2020** – Energy regulator (SENER) begins issuing implementing regulation with changes to import/export requirements
- **2023** – Most recent regulatory activity by SENER, imposing import and additional requirements as part of the illicit fuel combatting efforts, applicable to Lubricants and Additives
- Manufacturing, import, use and sale of Lubricants and Additives in Mexico continues to be regulated by secondary legislation and technical standards (NOM's based on ASTM)
- **Mexico Outlook** - continued growth expected for Mexican Lubricants and Additives market – nearshoring, energy and construction sectors
- **2024** – Presidential election to come in June, frontrunner candidate from current ruling party (MORENA), could impact future public policies

Which regulation in Mexico applies to Lubricants and Additives depends on the following:

1. The import tariff code under which the product is classified, and
2. The industry for which the product will be used.

Even though currently not considered as oil products (*petrolíferos*), Lubricants and Additives may be subject to oil products regulation.

Lubricants and Additives regulation in Mexico can be separated in two main branches:

- (i) Import and Export regulations; and
- (ii) Technical certifications, requirements to market, transport, and label in Mexico.

Regulation regarding these products is scarce, so, when a certain activity is not contemplated by the applicable law, the industry best practice should be for international standards to be followed.

Laws, Regulations and Regulators

- **SENER** (the Ministry of Energy) is the responsible agency for implementing country's energy Policy, by means of instruments that support the guarantee of a competitive, sufficient, high quality, economically viable and environmentally sustainable supply of energy required by the country.
- **SHCP** (the Ministry of Finance and Public Credit) is both responsible, through the National Customs Agency, of monitoring any products being imported to the country, and through the Tax Administration Service (SAT), of regulating any tax matters that may arise in connection to an operation.
- **SE** (the Ministry of Economy) seeks to develop and implement policies for productive and domestic inclusion, as well as encouraging domestic and foreign investment, promoting the use of mineral resources and boosting the productivity and competitiveness of industrial sectors, allowing their integration into regional and global value chains, in order to contribute to the well-being of Mexicans.

Import/Export Regulations - SENER

Decree establishing measures to combat the illicit fuel market - SENER

Customs Law

NOM-116-SCFI-2018, Automotive industry- Lubricating oils for gasoline and diesel engines- Specifications, test methods and commercial information

NOM-050-SCFI-2004, Commercial information - General Product Labeling

- **Import and Export Permit Applicability**

When a product being imported or exported is related to the energy industry, or derives or is produced from hydrocarbons, the Permits issued by SENER may apply.

For Lubricants and Additives, recent regulatory amendments have made it necessary to obtain a Permit for the **import** of such products, when classified under **certain specific tariff codes.**

Import/Export Regulations

Since November 7, 2023, the Import Permit is applicable to following products (among others):

Tariff Code	Description	Exceptions
2710.12.99	Others.	Except: Naphtha precursor of aromatics; Gasoline for aircraft; Gasoline with octane number lower than 87; Gasoline with octane number higher or equal to 87 but lower than 92; Gasoline with octane number higher or equal to 92 but lower than 95; Hexane, heptane; Other gasolines, which are already regulated.
01	Pure petroleum mineral oils, in tank car, tanker or auto-tanker.	
07	Propylene tetramer.	
77	Others.	

Import/Export Regulations

Tariff Code	Description	Exceptions
2710.19.02	Lubricating oils or lubricating preparations based on mineral oils derived from petroleum, with additives (finished lubricating oils).	N/A
00	Lubricating oils or lubricating preparations based on mineral oils derived from petroleum, with additives (finished lubricating oils).	

Import/Export Regulations

Tariff Code	Description	Exceptions
2710.19.99	Others.	Except: Diesel oil and blends thereof, with a sulfur content not exceeding 15 ppm; Diesel oil and blends thereof, with a sulfur content exceeding 15 ppm but not exceeding 500 ppm; Fuel oil; Turbosine, kerosene (lamp oil) and blends thereof; Other diesel oil and blends thereof, which are already regulated.
01	Pure mineral oils from petroleum, without additives (basic lubricating oils), in tank cars, tankers or tanker trucks.	
02	Lubricating greases.	
06	Rubber extender oil.	
07	Paraffinic oil.	
92	Other hydrocarbon mixtures (n-alkanes, isoalkanes and cycloalkanes) of chain length at least 95% of C11 to C16, with a boiling range between 200°C and 280°C according to ASTM D86, containing 1.0% or less by weight of aromatic hydrocarbons.	
99	Others.	

- **Permit Modalities**

In accordance with the provisions of the applicable legislation, the Import Permit shall be granted with the following terms:

- I. Sixty calendar days, in the case of Goods for testing and research;
- II. One year, and
- III. Five years.

Permits granted for one year may be extended up to two more times for the same term, and permits granted for five years may be extended for one single occasion for the same term.

Import/Export Regulations

- **Main Requisites for Import Permit**

Among the various requisites for the obtainment of the Import Permits granted by SENER, the applicant must include:

- Corporate documents crediting that the activity to be carried out corresponds to the corporate purpose of the company,
- Contractual documentation justifying the volumen to be imported,
- Contracts with third parties in charge of transport, storage and commercialization,
- In case its applicable, the permits required to conduct the activities described in the previous item, and,
- Prove the quality of the merchandise to be imported in accordance with the corresponding Mexican Official Standard (NOM).

This last item is connected to the **Technical Certifications** we'll discuss in the next section.

- **Additional Considerations**

As part of the country's efforts to combat the illicit marketing of fuels, there have been recent implementations of certain policies that apply to Lubricants and Additives.

A **Decree published on October 23, 2023** temporarily restricts the import of these products, establishing additional requirements, such as:

- Parties who wish to import goods that require the Import Permit granted by SENER, must prove that **(i)** the volume and destination of the goods they are requesting to import is necessary for their productive process, and **(ii)** that it will be used for the development or performance of a lawful activity and that it does not contravene the Decree.
- Import Permit holders with permits in effect prior to the Decree, may continue their operation, provided they inform SENER within 30 business days that they intend to continue operations in compliance with items **(i)** and **(ii)** above.

- **Foreign Trade**

Importers of Lubricants and Additives, classified under the tariff codes previously listed, must be registered in the General Importers Registry.

For some **specific products**, classified under tariff code **23710.19.99** (defined as “*Others*”, which include lubricating greases, rubber extender oil, paraffinic oil, other hydrocarbon mixtures and pure mineral oils) an additional registry before the Specific Import Registry for Sector 13 is needed.

Lack of registration may result in product detention at customs.

Additionally, certain products classified in the subsections of tariff code **23710.19.99** can only be imported through specific customs offices.

- **Mexican Official Standards (NOMs)**

As previously mentioned, technical specifications in Mexico are often comprised in NOMs, which establish the characteristics for the marketing, transport and labeling of specific products.

Currently, there is only **one NOM** applicable specifically to Lubricants and Additives, but other general NOMs may apply.

- **NOM-116-SCFI-2018** ([DOF – Federal Official Gazette](#))

NOM-116-SCFI-2018, Automotive industry - Lubricating oils for gasoline and diesel engines - Specifications, test methods and commercial information is a technical standard issued by the Ministry of Economy applicable to individuals or companies that produce, import and commercialize in the Mexican territory:

- (i) lubricating oils for four-stroke gasoline engines, and/or
- (ii) lubricating oils for two and four-stroke diesel engines.

Based on **ASTM** standards.

Technical Certifications

It excludes:

- (i) lubricating oils used in boats, motorcycles and four-wheelers with gasoline engines,
- (ii) lubricating oils used in locomotives and boats with diesel engines, and
- (iii) lubricating oils in **bulk presentation** (any container of lubricant product with a volume greater than 20 liters).

This NOM establishes the specifications and test methods that lubricating oils used in gasoline or diesel engines must comply with, as well as the commercial information of lubricating oils marketed in Mexico (including labeling).

To offer evidence of compliance with the characteristics established in the NOM, parties who produce, import or commercialize such products must obtain the certifications established therein, which include:

- **Certificate of Conformity** – document by which an accredited and approved certification body certifies that the products comply with the NOM, under the certification scheme indicated therein, and
- **Quality Management System Certificate** - The document by means of which a certification body for quality management systems certifies that a given manufacturer complies with the requirements established in the Mexican Standards for quality management systems of the CC series, and that includes, within its scope, the manufacture of the products to be certified.

An application must be filed for the obtainment of such certificates, and different schemes may apply depending on the type of certification required.

Certificates of Conformity may be granted for a term of:

- **Two years** (with the possibility of renewal for the same period as many times as required) for the validity of the certification scheme with follow-up of the product in the factory or warehouse.
- **Three years** for the validity of the certificates of conformity obtained through the certification scheme with follow-up of the product in the factory or warehouse, when the interested party has a quality management certificate applied to the lubricating oil production line issued by an accredited management system certification body.

- **NOM-050-SCFI-2004**

NOM-050-SCFI-2004, Commercial information - General Product Labeling is a NOM issued by the Ministry of Economy establishes the commercial information that must be contained in products of **domestic and foreign origin** intended for consumers in Mexican territory and to establish the characteristics of such information.

These provisions apply to all categories of products, except those where specific requirements are established in other NOMs, for example, those of **NOM-116-SCFI-2018**.

Means of Defense – Import Permit

- **Legal Recourse**

Parties affected by the Import/Export Regulations may seek legal recourse through the following options:

- **Federal Administrative Trial** (*Juicio Contencioso Administrativo*) – which may be filed within 30 business days after the first act of application; or
- **Constitutional Trial** (*Juicio de Amparo*) – which may be filed 15 business days after the first act of application.

The applicability of a Constitutional Trial shall depend on certain specific characteristics, including that there are no other means of defense available to the affected in.

Means of Defense – Import Permit

- **Terms for Filing**

The terms individuals have for filing any of the means of defense mentioned in the previous slide depend on **(i)** the date of publication (which in this case has elapsed), or **(ii)** the first act of application.

First act of application refers to the first time in which the individual is affected by the regulation in question, which usually means the moment in which they are required to obtain the permit, or when the authorities intend to sanction them for lack of compliance with such regulations.

The terms described for each of the trials must be counted starting from such first act of application, in case the filing of a mean of defense is desired.

OPEN DISCUSSION/QUESTIONS



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