

3.3 Duty-free imports

The Mexican Customs Law allows goods to be imported without the payment of import duties, provided the goods are eventually exported from Mexico. Such method of importation is only available under special circumstances and for specific purposes. One of those special circumstances is a *maquila* operation.

A company that has qualified to operate under a *maquila* program approved by *SECOFI* automatically qualifies to import, on a temporary basis, certain items listed in the *Maquiladora* Decree, such as raw materials, components, equipment or tools. Upon approval of the *maquila* program or any time thereafter, *SECOFI* may issue the import permits for the specific items required to be imported by the *maquiladora*.

A temporary importation entails certain record-keeping obligations listed in the *Maquiladora* Decree. If such obligations are not fulfilled, the importer may be subject to the payment of duties and penalties.

Inasmuch as the NAFTA eliminates Mexican customs duties on imports from the U.S. and Canada either immediately or over a period of years depending on the goods in question, it significantly reduces the attractiveness of the *maquiladora* program for U.S. and Canadian investors. As a corollary to the latter point, after January 1, 2001, the NAFTA prohibits Mexico from allowing import duty exemptions to *maquiladoras* or any other importers in respect of goods to be re-exported to the U.S. and Canada.

3.4 Sales into the Mexican Market

Pursuant to the December 24, 1993 amendments to the *Maquiladora* Decree and under the NAFTA, a *maquiladora* may sell a portion of its output into the domestic Mexican market. Beginning in 1994 a *maquila* company will be able to sell to the domestic market up to 55 percent of the total value of its annual exports in the previous year. Each year thereafter this percentage will be increased by 5 percent. As of January 1, 2001, *maquiladoras* will not be subject to any percentage limitation on sales to the domestic market. In any event, duties must be paid on all imported materials or components contained in the finished product to be sold into the domestic market of Mexico.