

Decree for the creation of the National Customs Agency

Mexico City, July 16, 2021

On July 14, 2021, the Federal Government published a "Decree creating the Mexico National Customs Agency as a decentralized administrative entity of the Ministry of Finance and Public Credit" in the Official Gazette. This new entity will be autonomous and independent from the Tax Administration Service (for its acronym in Spanish "SAT"), to which the General Customs Administration was originally assigned.

As expressly stated in the aforementioned Decree, the creation of the new Agency was adopted to strengthen the Mexican customs system in order to contribute to the reinforcement of national security and to harmonize the processes involving customs and inspection services in accordance with the international agreements signed by Mexico in connection with foreign trade operations.

The National Customs Agency of Mexico ("ANAM" for its acronym in Spanish), as a decentralized entity of the Ministry of Finance and Public Credit (for its acronym in Spanish "SHCP"), will be endowed with technical, operational, administrative and management autonomy, having the character of both a tax and a customs authority. In addition, it will have authority to issue resolutions within the scope of the faculties assigned to it through the Decree, and which will be additional or regulated in the coming months through additional rules and regulations.

Operationally, it will also have representative offices in the different states of Mexico and in other countries.

Among the various faculties granted to ANAM, the most relevant are: the power to collect taxes and duties applicable to foreign trade operations (including fines, surcharges and the like); the power to determine and collect such taxes, duties and fines; the power to issue directives related to customs and inspection services under the terms set forth in the applicable provisions; carry out operations aimed at verifying the legal importation goods within national territory and products being transported, including those related to the verification or confirmation of the correct country of origin of such products. In this sense, it will have the faculty to seize or secure



those products for which the legal status in the country is not proven, with the condition to store them as a guardian.

Of utmost relevance is that, as of its creation and once the Decree is effective, this decentralized Agency will now be in charge of managing and granting the general importers' registry, as well as the importers' and exporters' registries for specific sectors.

Likewise, it was assigned with the authority to represent and defend the fiscal interest of the government in those tax and customs disputes that are related to the entry, exit or transit of goods to or from Mexico, and must, at all times, enforce the correct compliance with the tax and customs regulations. In connection with the above, this Agency was assigned with the faculty to coordinate with the Mexican armed forces and institutions in charge of the national and public security, to preserve the security in the different access points to the national territory, having the power to issue general administrative provisions and administrative agreements that may be necessary for the effective exercise of this purpose.

Additionally, ANAM will operate as a consultative body to the Federal Government in customs and trade matters, having the power to propose and contribute with timely data, subject to higher approval, to the customs administration policy; as well as being responsible for the negotiations of international treaties on the matter, providing under the principle of reciprocity, the assistance requested by supervisory and regulatory entities of other countries with which an agreement has been signed, and, on the other hand, signing inter-institutional agreements.

The head of ANAM will have the necessary faculties to carry out the obligations and duties of the Agency itself, and will be appointed and removed freely by the President, based on a proposal prepared and sent by SHCP. According to the transitory provisions of the Decree, the current General Customs Administrator will be proposed as head of ANAM.

The aforementioned Decree will enter into force until the effective date when the legal reforms that grant the jurisdiction currently held by SAT in tax and customs matters are assigned to ANAM. SHCP was granted a maximum term of 180 calendar days as of the entry into force of the Decree, that is to say, when the corresponding legal and regulatory reforms take place, to propose a draft of the internal regulations of ANAM.

It is important to emphasize that, all and any current reference and attributions granted to SAT or any of its administrative units within the legal provisions, shall be understood to be made to ANAM, when related to the faculties assigned to the new Agency, its internal regulations and any other legal provisions that arise therefrom, meaning all customs and tax related matters.

Finally, is important to point out that the creation of ANAM and the aforementioned amendments to the laws and other applicable legal provisions, do not immediately affect other faculties currently held by other administrative units within SAT that are not listed in those expressively conferred to the new Agency. Such is the case of the General Auditing Administration of Foreign Trade (for its acronym in Spanish "AGACE"), which could lead to regulatory and control complications.

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