

***Meeting New Requirements for  
Retaining the Benefits of Certified  
Company Status and for Obtaining  
Favorable VAT Treatment on Virtual  
Customs Transfers***

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# *Introduction*

## Election Year in Mexico

- Like the U.S. – political gridlock.
- Unlike the U.S. – no big tax changes proposed this year.
- Fundamentals unchanged.
  - Free trade orientation – network of trade agreements.
  - Competitive tax rates (with the IETU as a wild card)
  - Relatively unproductive tax system – 11% of GDP.
    - Narrow VAT base, tax evasion, oil revenue.
  - Importance to Mexico of the state of the U.S. economy.
    - Manufacturing booming again, especially automotive.

## Overall Tax and Trade Regime for Maquiladoras (i.e. “IMMEX” companies)

- Special combined income tax and IETU burden of 17.5% of the income tax base for maquiladoras engaged in consignment manufacturing
  - New conditions apply to get that rate and PE exemption
  - Special IETU base extended only through 2013
- Temporary importation continues to be available without VAT for materials, components and machinery and equipment
  - Virtual pedimentos preserve the benefit for certain maquila deliveries in Mexico without taking the goods to the border
  - New conditions on getting streamlined customs procedures

*Substantial  
Changes  
in Mexico's  
Certified Company  
Program*



# Background

- 2012 changes implement the World Customs Organization (“WCO”) SAFE framework of standards
- Focused on national security
  - Like “C-TPAT” in the U.S.
- Mandatory implementation in Mexico (2005)
- Implementation in Mexico:
  - Modifies the Certified Company Program
  - Uses a new category:
    - ✓ Mexican Authorized Economic Operator = NEEC





# Mexico's Certified Company Program

- Elimination of benefits
- More requirements
- Reclassification of companies
- Redistribution of benefits

**MORE SECURITY = ADDITIONAL BENEFITS**

# Authorized Economic Operator Programs Worldwide

Country	Programme Title	Programme Type
Argentina	Customs System of Reliable Operators (SAOC)	Export
Canada	Partners in Protection (PIP), Customs Self-Assessment (CSA), Free and Secure Trade (FAST), Partners in Compliance (PIC)	PIP - Import/export CSA, FAST, PIC - Import
China	Classified Management of Enterprises	Import/export
EU (27 countries)	AEO	Import/export
Japan	AEO	Import/export
Jordan	Golden List	Import/export
Korea	AEO	Import/export
Malaysia	AEO	Import/export
New Zealand	Secure Exports Scheme (SES)	Export
Norway	AEO	Import/export
Singapore	Secure Trade Partnership (STP)	Import/export
Switzerland	AEO	Import/export
USA	Customs-Trade Partnership against Terrorism (C-TPAT)	Import

Info from the World customs Organization



## Authorized Economic Operator programs to be launched

Country	Title	Type
Andorra*	AEO	Import/export
Botswana	Trans Kalahari Accreditation Scheme	Import/export
Chile	AEO pilot	Export
Colombia*	AEO	Export
Costa Rica*	AEO	Export
Guatemala*	AEO	Import/export
Former Yugoslav Republic of Macedonia	AEO	Import/export
Israel	AEO	Import/export
Morocco	AEO	Import/export

\* Information on the programmes is not available

Info from the World customs Organization

# Customs Compliance Programs

Country	Title	Type
Brazil	Blue Line	Import/export/transit
El Salvador	PACE	Import
Indonesia	MITA	Import
Kenya	AEO	Import/export
Rwanda	Compliant Trader Schemes (Gold Card Scheme and Pre-clearance Scheme)	Import
Serbia	Procedure for Simplified Declaring of Goods	Import/export
Tanzania	Compliant Traders' Scheme	Import
Thailand	Gold Card Licensed Customs Broker	Import/export Import/export

Info from the World customs Organization



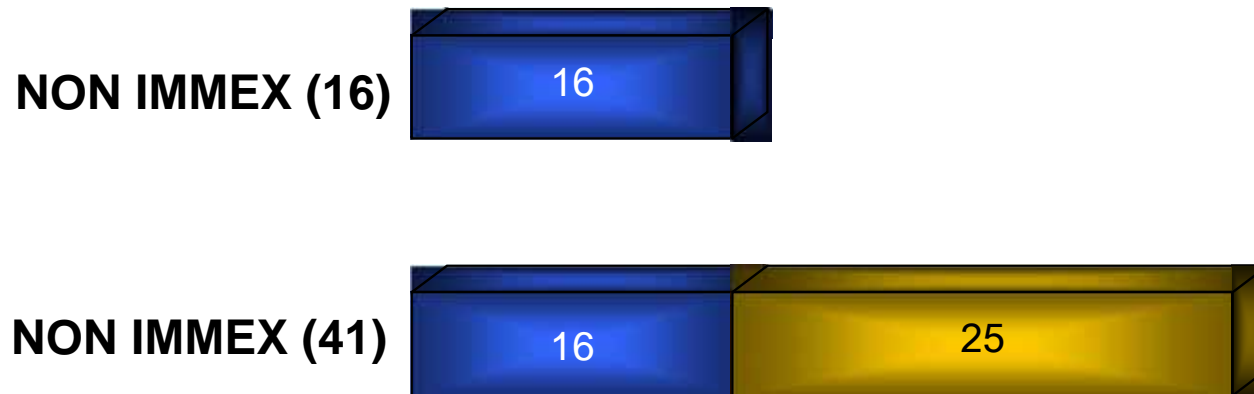
# Reclassification of Companies



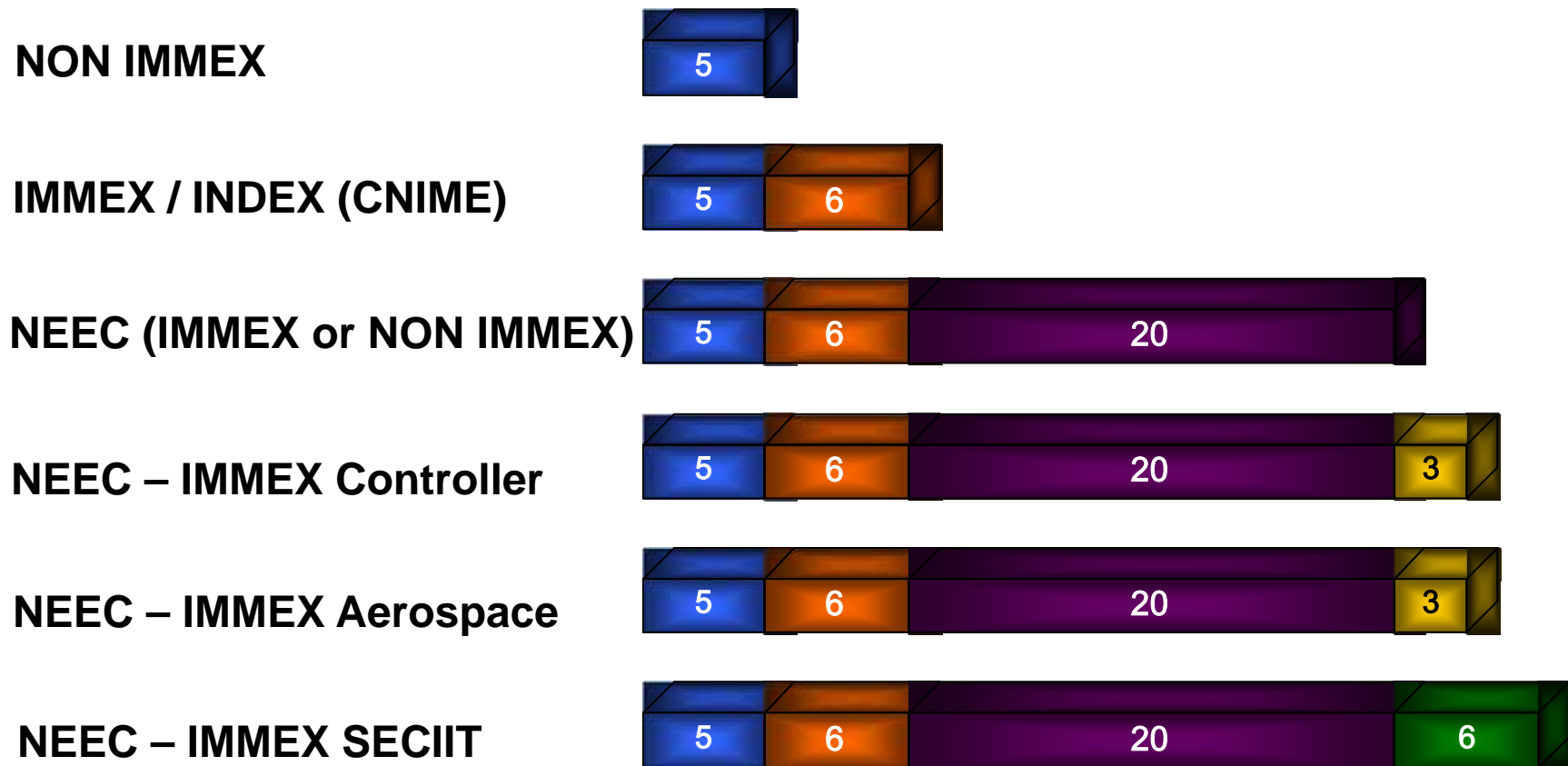
## Reclassification of Companies

- Eight new categories
  - All require an application and approval
- Level of benefits is based on level of certification
- New qualification standards:
  - Customs and Trade Compliance
  - and
  - Implementing a Safety & Security Regime
- Effective as of January 2, 2012
  - Or when a company's current 12-month company certification expires

# Previous Classifications and Benefits



# Current Classifications and Benefits





# Benefits by Classification



## Special Trade Benefits for a NON-IMMEX:

1. Electric and electronic companies – may import goods without declaring serial numbers but must declare brand and model and register the serial numbers in the inventory control system.
2. Fewer requirements for getting authorization to proceed with the payment and printing of pedimentos (*prevalidación*).
3. Fewer requirements to register in-house customs brokers.





## Special Trade Benefits for a NON-IMMEX:

4. 1 additional amendment to the information contained in pedimentos (total of 3) whenever a debit balance from the customs authorities is owed.
5. 30 to 60 days extension to comply with non tariff regulations and restrictions in case of preventive seizure. Guaranties may be filed for goods substitution.



## Additional Special Trade Benefits for **IMMEX / INDEX (CNIME)**:

6. IMMEX in services modality – change of customs regime from temporary to definitive import of materials transferred by companies of the auto parts sector to be sold to OEMs.
7. Exemption of detailing date, pedimento number and processes for purposes of submaquila notices.
8. Virtual operations by IMMEX companies to deliver watercraft to foreigners or Mexicans within Mexico.



## Special Trade Benefits for **IMMEX / INDEX (CNIME)**:

9. Authorization of several in-house customs brokers for holding groups not within a tax consolidation regime.
10. 36 months term for temporary imports.
11. IMMEX of the electric and electronic sector or IMMEX Aerospace under shelter may import goods without declaring serial numbers, but must declare brand and model and must register the serial numbers in the inventory control system.



## **Additional Special Trade Benefits for NEEC, whether or not Maquiladora:**

- 12.** Origin declared in pedimentos may be amended within the next 3 months of customs clearance (when green light), as long as the company is not subject to audit.
- 13.** Volume, number of items and other data related to quantities may be amended within 30 days from customs clearance (when green light). This benefit applies only to temporary or definitive imports and not to virtual transfers.
- 14.** Regularize goods even under customs audit.



## Special Trade Benefits for NEEC, whether or not Maquiladora:

15. Upon definitive importation, regularization of unauthorized or undeclared goods during customs inspection (within 10 days and by paying fines), avoiding seizure. The authorized limit is of \$15,000.00 USD or 20% of the shipment value.
16. Use of "FAST" lanes.

## Special Trade Benefits for NEEC, whether or not Maquiladora:

17. No cancellation of the Importers' Registry / Specific Sectors of the Importers' Registry when a company is not located by customs authorities or changed tax domicile without notifying customs authorities.
18. Clearance of goods carried by passengers without using customs premises.
19. No import duties for labels, flyers and manuals returned to the US or Canada.



## Special Trade Benefits for NEEC, whether or not Maquiladora:

20. Authorization to use PROSEC rates upon a change of customs regime (from temporary to definitive).
  
21. Authorization to use the highest PROSEC rate (without modifying the original pedimentos) upon a change of customs regime (from temporary to definitive) when more than one PROSEC Sector may be used.



## Special Trade Benefits for NEEC, whether or not Maquiladora:

- 22. Authorization of virtual transfers through pedimentos V5.
- 23. PROSEC or 8th rule rates may be used by IMMEX companies upon importation through virtual transfers.
- 24. Upon temporary importation, regularization of unauthorized or undeclared goods during customs inspection (within 3 days and by paying fines), avoiding seizure. The authorized limit is of \$15,000.00 USD or 20% of the shipment value.



## Special Trade Benefits for NEEC, whether or not Maquiladora:1

25. Return, without the payment of fines, of undeclared goods that are not part of the industrial processes (upon green light) even within 3 days following an audit has begun. Maximum value of the goods must be of \$15,000.00.
26. 60 days extension for duty payment of non originating goods upon exportations to the European Union.

## Special Trade Benefits for NEEC, whether or not Maquiladora:

27. Carry out customs operations (temporary, definitive or returns) in a single vehicle, supported with several pedimentos and processed by several customs brokers and/or in-house customs brokers.
28. For purposes of NAFTA's article 303, a single pedimento may be processed for every 60 days period.
29. Process a single pedimento of change of customs regime covering various importations of materials within their temporary import term.

## Special Trade Benefits for NEEC, whether or not Maquiladora:

30. Companies of the electric and electronic sectors or OEMs may use the Revision in Origin procedure and adjust their inventory control system within 30 days after the import has been conducted. For definitive imports, duties and antidumping duties must be paid, for temporary imports fine for inexact information is applicable.
31. A single monthly consolidated pedimento of change of customs regime may be processed by companies of the auto parts sector covering parts sold to the OEMs.

## Special Trade Benefits for NEEC – IMMEX Controller:

- 32. When an IMMEX becomes part of a Controller, 6 month term to transfer materials, parts and components and 12 month term to transfer machinery and equipment.
- 33. Processing by the controlling company of a single pedimento on behalf of all the controlled companies. Delivery of goods may be done through transfer notifications.
- 34. 0% VAT rate for manufacturing services carried out to goods imported by the controller.

## Special Trade Benefits for NEEC – IMMEX Aerospace:

32. Materials may remain in Mexico while the Maquila program is authorized.
33. Inventory discharge may be done taking in to account the effective usage of the goods and by Harmonized tariff classification.
34. Exemption of declaring identification information of merchandise (brand, model, serial or part number) in the pedimentos.

## Special Trade Benefits for NEEC – IMMEX SECIIT:

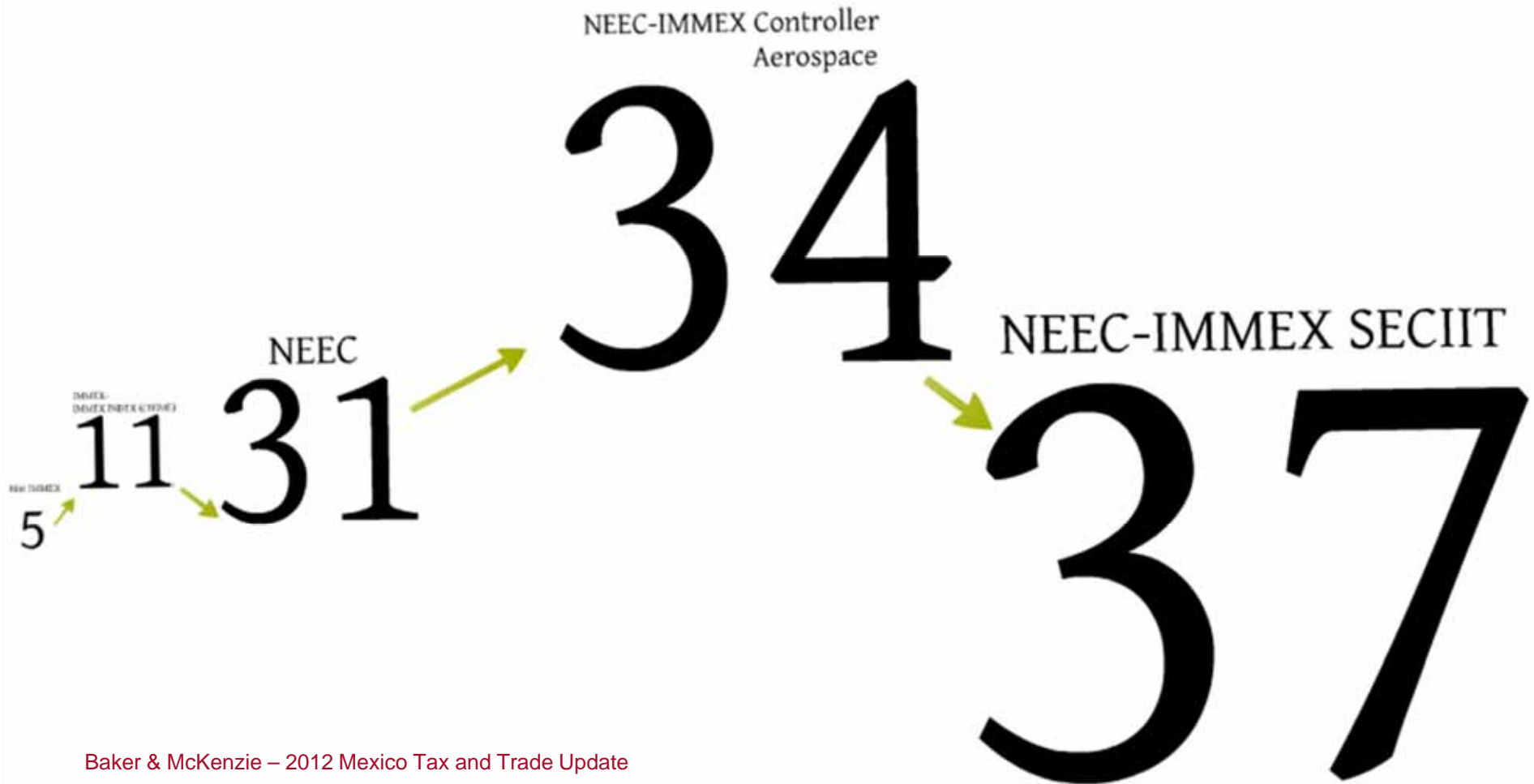
32. Process an “Electronic simplified pedimento”.
33. Carry out consolidated operations with the electronic simplified pedimento.
34. Processing by the controlling company of a single pedimento on behalf of all the controlled companies. Delivery of goods may be done through transfer notifications.



## Additional Special Trade Benefits for NEEC – IMMEX SECIIT:

- 35. 60 days term for adjusting the inventory control system and the SECIIT.
- 36. No value manifest or calculation value sheet.
- 37. Materials, parts and components may remain in Mexico for a 60 month term.

# Summary of Benefits According to Classification





# New requirements depending on your company type





## Requirements for NON-IMMEX:

- Import operations of at least \$300 million MXP (customs value) in the last semester.
- Compliance with tax obligations.
- Statutory report of financial statements practiced by registered public accountant corresponding to the last fiscal year.
- Positive opinion of compliance with tax obligations.
- Designation of an authorized customs brokers.
- Designation of an authorized carrier.



## Requirements for IMMEX (i.e. Maquiladora) without CNIMME certification:

- The same requirements as for NON-IMMEX except for:
  - Import operations of at least \$200 million MXP (customs value) in the last semester.

## Requirements for **IMMEX INDEX (CNIMME)**; when the 200 million threshold is not fulfilled:

- Favorable resolution from INDEX (CNIMME).
  - Requirements to secure resolution:
    - ✓ *Copy of annual report of foreign trade operations.*
    - ✓ *Copy of document evidencing that company has at least 100 registered workers (unless company demonstrates M&E worth at least USD\$10,000,000.00.*
    - ✓ *Copies of documents evidencing that company has M&E worth at least USD\$250,000.00.*
    - ✓ *Copy of document evidencing title of ownership of property or lease agreement.*
    - ✓ *Copy of the IMMEX authorization by the Ministry of Economy.*

## Requirements for **IMMEX INDEX (CNIMME)**; when the 200 million threshold is not fulfilled:

- Requirements to secure resolution (*cont'd*):
  - ✓ *Copy of the submaquila registry (if applicable)*
  - ✓ *Statement under oath indicating:*
    - Plant layout.
    - Accrued production of previous tax year (quantity and value).
    - Index of policies and procedural manuals as well as other controls in place for compliance with customs obligations including at least the following information:
      - If applicable, copies of ISO certifications or any other similar international certifications.
  - ✓ *Visit to the premises*

**Estimated timeframe of 3 months to secure favorable resolution.**

## Requirements for NEEC:

- Have conducted foreign trade operations for the last 5 years.
- Digital signature for issued tax receipts.
- No requirement to be a maquiladora (an “IMMEX” company)
- Favorable resolution of the Central Administration for International Affairs of the Tax Service Administration (ACAI).
- To secure resolution, the following must be provided:
  1. *Integrated supply chain management.*
  2. *Premises security.*
  3. *Controlled access to premises.*
  4. *Trading partner security.*

## Requirements for NEEC:

5. *Security processes.*
6. *Customs management.*
7. *Security of transport vehicles.*
8. *Personnel security.*
9. *Management of commercial records.*
10. *Education, training and awareness.*
11. *Crisis management and incident recovery.*

**ACAI will issue positive resolution within a term of 100 days.**

# Specifics to file for ACAI's favorable resolution for NEEC

1. Integrated supply chain management.
  - Companies follow integrated customs control procedures for achieving a risk assessment for the senior management to implement risk mitigation strategies.
2. Premises security.
  - Ensure the monitoring and controlling of exterior and interior perimeters.
  - Buildings must be constructed of materials that resist unlawful entry.
  - The integrity of structures must be maintained by periodic inspection and repair.
  - All external and internal windows, gates and fences must be secured with locking devices or alternative access monitoring or control measures.



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# Specifics to file for ACAI's favorable resolution for NEEC

## 3. Controlled access to premises.

- Management or security personnel must control the issuance of all locks and keys.
- Only properly identified and authorized persons, vehicles and goods are permitted to access the facilities.
- Appropriate peripheral and perimeter barriers.
- Access to document or cargo storage areas is restricted and there are procedures to challenge unauthorized or unidentified persons.
- There should be appropriate security systems, such as, theft alarm and/or access control systems.
- Restricted areas should be clearly identified.

# Specifics to file for ACAI's favorable resolution for NEEC

4. Trading partner security.
  - When entering into negotiated contractual arrangements with a trading partner, encourage the other contracting party to assess and enhance its supply chain security and, to the extent practical for its business model, include such language in those contractual arrangements.
5. Security processes.
  - Develop a program, based on a structured methodology that includes such processes security processes, in order to determine compliance with the core international standards of the SAFE Framework.

# Specifics to file for ACAI's favorable resolution for NEEC

## 6. Customs management.

- Companies should have documented processes where internal and operational policies are established and controls for guarantying compliance with customs regulations.

## 7. Conveyance security.

- Companies shall work toward the establishment of effective control regimes, where not already provided for by other national or international regulatory mandate, to ensure that transport conveyances are capable of being effectively secured and maintained. High security seals must be used at all times according with ISO 17712 standard.

# Specifics to file for ACAI's favorable resolution for NEEC

## 8. Personnel security.

- Companies must screen the background of prospective employees to the extent legally possible. In addition, they shall prohibit unauthorized access to facilities, transport conveyances, loading docks and cargo areas that may reasonably affect the security of those areas in the supply chain under their responsibility.

## 9. Management of commercial records.

- Maintain timely, accurate, complete and verifiable records relating to import and export.
- Maintenance of verifiable commercial records is an essential element in the security of the international trade supply chain.

# Specifics to file for ACAI's favorable resolution for NEEC

## 10. Education, training and awareness.

- The company shall develop mechanisms for the education and training of personnel regarding security policies, recognition of deviations from those policies and understanding what actions must be taken in response to security lapses.

## 11. Crisis management and incident recovery.

- In order to minimize the impact of a disaster or terrorist incident, crisis management and recovery procedures should include advance planning and establishment of processes to operate in such extraordinary circumstances.

## Requirements for NEEC:

- When ACAI issues positive resolution, it should be filed within 30 days to the ACRA with the rest of the requirements and documents.
  - In case it is not filed, the company must request a new report after 6 months of the date of the original report.
- In case ACAI does not issue a favorable resolution, companies will not be able to file again after 2 years.



## Requirements for NEEC – IMMEX Controller:

- NEEC requirements+ IMMEX authorization.
- List of controlled companies.





## Requirements for NEEC – IMMEX Aerospace:

- NEEC requirements + IMMEX authorization.
- Authorization from the Civil Aeronautics Administration.
- Positive resolution of INDEX (CNIME).

## Requirements for NEEC – IMMEX SECIIT:

- NEEC requirements+ IMMEX authorization.
- Have any of the following:
  - Listed in the stock market.
  - At least 1,000 workers.
  - Fixed assets with value of at least \$30,000,000.00 million USD.
- GPS for cargo security during transport.
- Enterprise Resource Planning (ERP) system.
- SECIIT functional flowchart.

## Term of Response

- The customs authority shall issue resolution within in a period not to exceed forty (40) business days as of the submission date.
- For NON-IMMEX, IMMEX, IMMEX INDEX (CNIMME), NEEC and NEEC-IMMEX Controller:
  - If customs authorities do not respond within the 40 day timeframe, it should be understood that application was resolved favorable.
- For NEEC IMMEX, NEEC – IMMEX Aerospace and NEEC – IMMEX SECIIT:
  - If customs authorities do not respond within the 40 day timeframe, it should be understood that application was denied.

**Authorizations of Certified Companies are valid for 1 year.**

# *Electronic inventory control system (SECIIT)*



# General Requirements

- System is required to deliver of information to the Customs Authorities within a 24 hour period of time.
- System should have access to the company's ERP.
- System should allow the electronic access to the system of the Customs Authorities.



# Objectives

- The system must be capable to prove returns and open balances.
- The system must have a reporting tool to show that all the requirements were complied by the company.
- Reports from the system should be available at any time to the Customs Authorities.



# Architecture of the system

## A. CATALOGUES

1. General information of the company
2. Materials used in the production processes
3. Finished goods
4. Suppliers
5. Clients
6. Customs Brokers
7. Outsourcing Suppliers
8. Machinery and equipment



# Architecture of the system

## **B. REPORTS**

- Imports (raw materials, parts and components)
  - Temporary imports.
  - Definitive imports.
  - National purchases.





# Architecture of the system

## – Exports

- Physical exports.
- Virtual transfers.
- Change of customs regime.
- Scrap control.
- Outsourcing activities.
- Imports of machinery, equipment and spare parts.

# *Value Added Tax*

# Value Added Tax – General Principles

- Taxable Transactions;
    - Sales and transfers of goods
    - Rendering of services
    - Granting of use or enjoyment (leasing)
    - Importation of goods and services
  - Taxpayer
    - Generally the seller, services provider or lessor (passed to customer)
    - Import VAT imposed on the importer (self charged VAT)
- When deemed to be Made In Mexico

## Value Added Tax – Credit Mechanism

- Credit input VAT paid to vendors against output VAT collected from the customer;
  - Import VAT credited in same tax return;
- Subject to several requirements and formalities:
  - Must relate to taxable activities;
  - Must relate to expenses deductible for income tax purposes;
  - Must be effectively paid;
  - Must be expressly stated in the tax invoice.
- VAT charged to Non Mexican VAT taxpayers is not creditable (i.e. VAT charged to foreign residents for sales or services that don't qualify as exports).
  - PE of a foreign company can recover VAT.
  - Registration for VAT purposes only may also be possible.



## Value Added Tax – Rates

- 16% General Rate
- 11% in the border region (subject to certain requirements)
- Zero rate on exports of goods (includes physical and virtual exports)
- Zero rate on some exports of services
  - Those listed in the VAT Law – “Mediacion”, “Comission”, Maquila Services, etc.
  - Provided that the services are enjoyed abroad.



## Value Added Tax – Withholding (not paid to seller)

- Applicable to Payer for:
  - Professional services, commissions and rents paid to individuals
  - Purchases of goods and rents from foreign residents (provided that the transaction is deemed to be made in Mexico)
  - Freight charges from individuals and corporations
  - Purchases of goods by Maquiladoras from Mexican vendors
- Withholding Agent Pays the Tax on Behalf of the Supplier
- Amount withheld is a Credit for the Withholding Agent
  - Provided that the VAT withheld is effectively paid Mexican government – Cash flow impact.
  - Immediate credit on purchases made by Maquiladoras.

## Value Added Tax – Payment/Credit Procedures

- Based on cash flow basis:
  - VAT is due when effectively collected from customer;
  - VAT is creditable when effectively paid to vendor;
- Due on a monthly basis (17<sup>th</sup> day of each month):
  - VAT collected from customers (Output VAT) and VAT withheld from vendors
  - (minus)*
  - VAT paid to vendors (Input VAT) and VAT withheld by customers
  - = VAT Payable (or balance to be recovered)**

## Value Added Tax – Recovery Procedures

- Favorable VAT can be recovered through:
  - Credit against future months output VAT;
  - Offset against other Federal Taxes (*Compensacion Universal*):
    - Subject to several formalities and scrutiny from the Mexican Tax Authorities.
  - Refund Procedure:
    - Subject to several formalities and increased scrutiny from the Mexican Tax Authorities.





## Value Added Tax – VAT Refunds

### –Terms to obtain Refunds:

- General Rule: 40 business days as of date of refund request
- Certification by a registered CPA: 25 business days
- Maquiladoras: 20 business days
- Certified Maquiladoras: 5 business days
- ALTEX Companies: 5 business days

### –Special Considerations:

- Delays on refunds caused from additional information requests and lack of funds by the Mexican Government
- Pursuing a Refund
  - Important to file for refund promptly and pursue vigorously
  - Before the balance to refund becomes sizable



## Value Added Tax – Formal Requirements

- VAT Taxpayers are required to:
  - Maintain accounting books and records in accordance with Mexican tax regulations;
  - Issue Mexican tax invoices:
    - Electronic invoicing,
    - Including VAT expressly stated,
    - Include information about the payment of each invoice.
  - File monthly VAT returns (payment and informative returns)
  - Issue VAT withholding certificates.



## Value Added Tax

- Key objectives:
  - Avoid payments of VAT that are not creditable
    - e.g. VAT paid by USCo on payments to a Mexican company
  - Avoid need for a foreign party to register for VAT, use Mexican invoices, etc.
  - Minimize cash flow cost of paying VAT that needs to be refunded
    - e.g. VAT paid on purchases of inputs by an export-oriented company such as a maquiladora

# *Value Added Tax Benefits and Issues for Maquiladora Operations*

## Value Added Tax Issues for Maquiladoras

- Zero rated transactions for Maquiladora Operations:
  - Temporary importation of goods
  - “Temporary” importation of equipment
  - Invoices to foreign parties for processing services
  - Transfers of finished products - rules are unchanged for:
    - Physical exports
    - Direct maquiladora transfers in Mexico using “virtual pedimentos” under regulation “V1”:
      - To other maquiladoras or
      - To Automotive OEMs (2 variations)

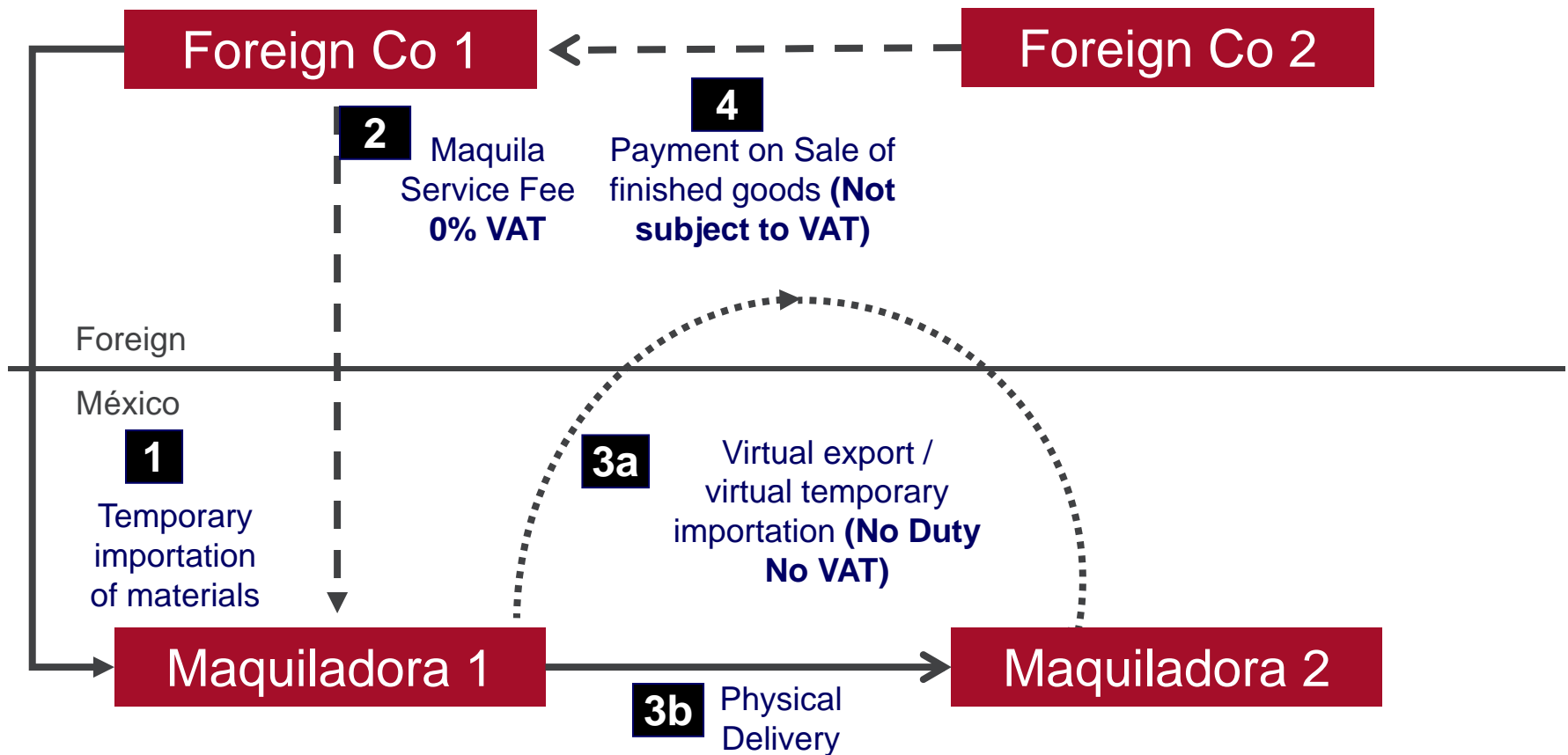
## Normal Rules for Non-Residents

- Non-residents owning finished products manufactured by a Mexican maquiladora, could be subject to VAT on:
  - Sales of products with physical delivery in Mexico:
    - Normal VAT rates on transfer or sale of goods deemed to be made within Mexico, i.e. shipment or physical delivery made in Mexico.
    - Subject to VAT withholding, special invoicing requirements and potential VAT registration.
- Non-residents may be required to pay VAT (unrecoverable) on:
  - Purchases from domestic suppliers:
    - VAT is generally recoverable only if the purchaser is a VAT taxpayer (registered VAT taxpayer). Usually not the case.
  - Payments for non-export services or leases.

## How can Non-Residents Avoid VAT?

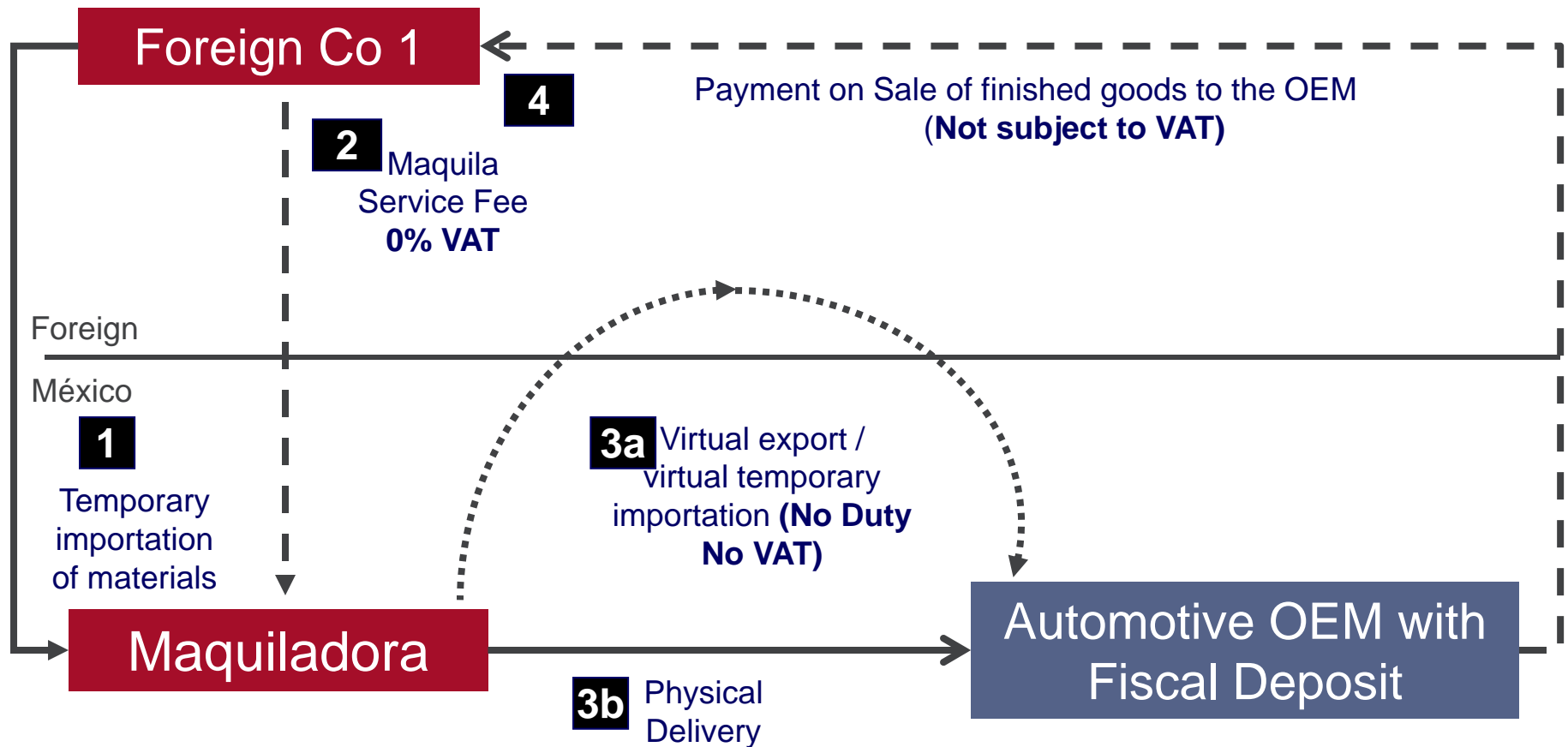
- Special VAT exemption on sales between non-residents or sales to Mexican Maquiladoras provided that:
  - The goods are transferred through the use of virtual pedimentos to other Maquiladoras or companies operating through under the fiscal deposit regime, or
  - The goods are sold while under the temporary importation regime.
- Zero VAT rate on sales made by Mexican suppliers to non-residents provided that physical delivery is made to a Maquiladora through the use of virtual pedimentos.
- Zero VAT on payments for Maquiladora Services.

# Sales of Products Delivered to Another Maquiladora – “V1 Pedimentos” – Unchanged

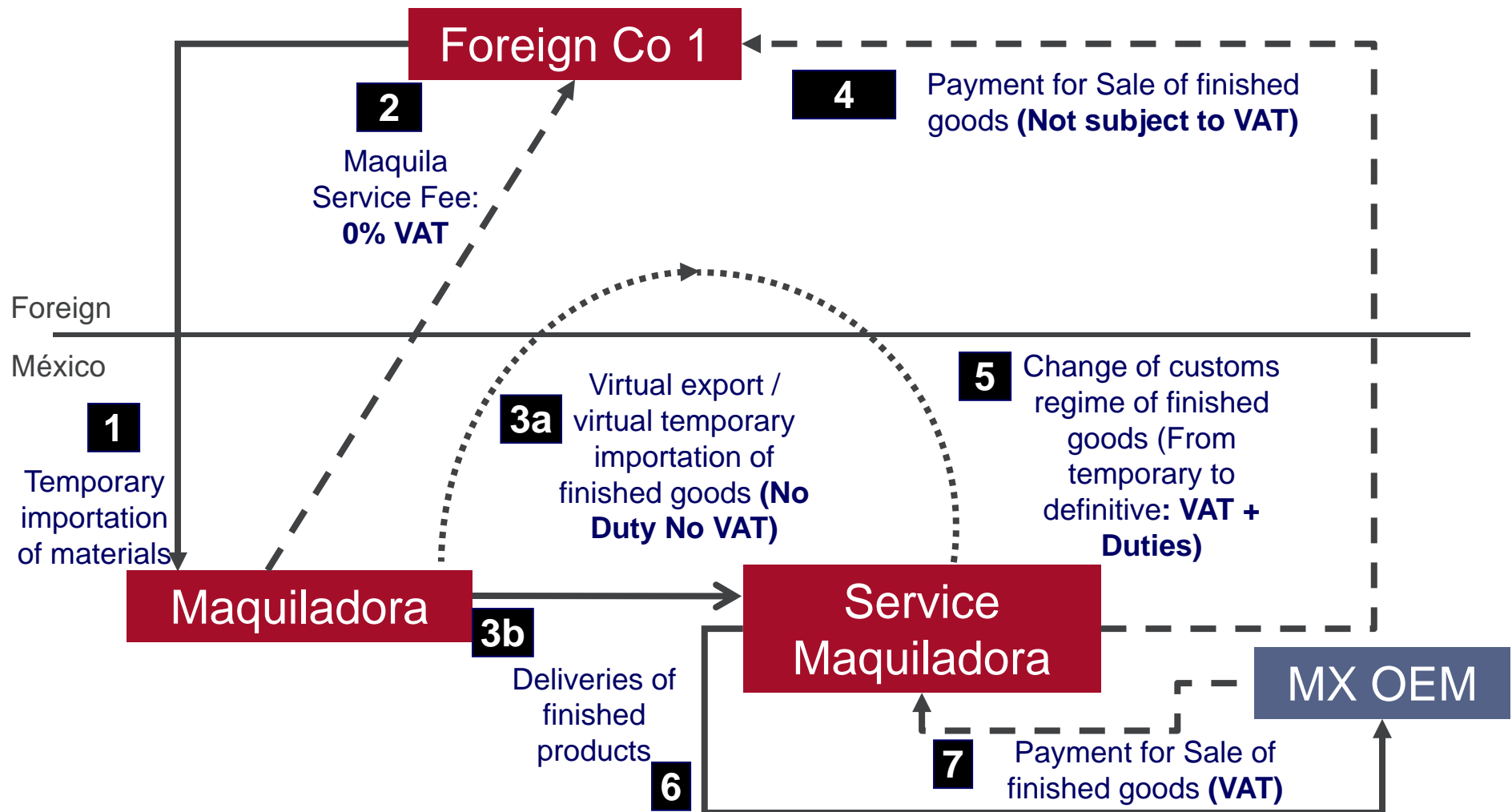




# Sales of Products Delivered to an Mexican Automotive OEM with Fiscal Deposit – “V1 Pedimentos” – **Variation 1**



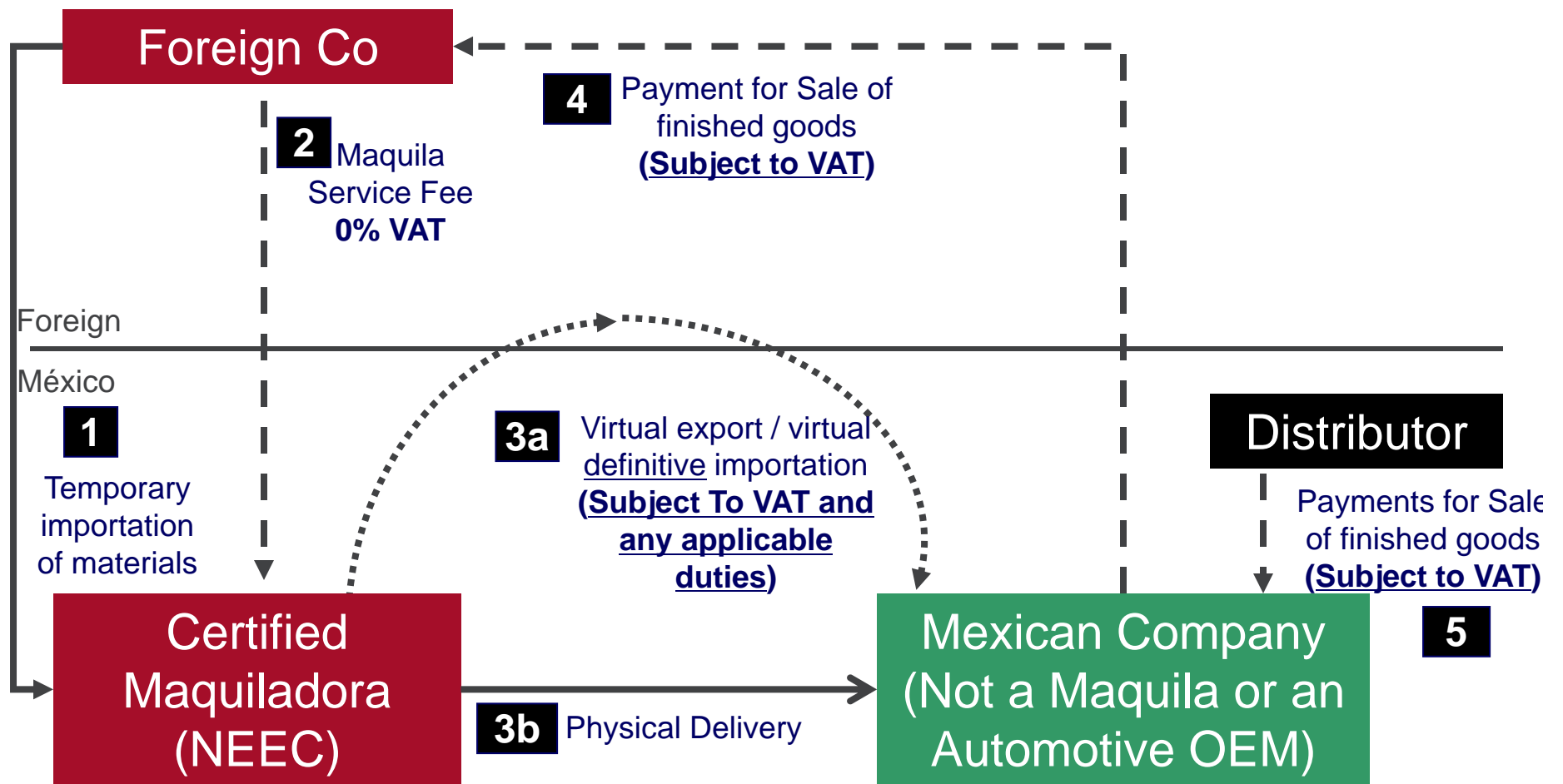
# Sales of Products Delivered to an Mexican Automotive OEM with Fiscal Deposit – “Pedimento V1” – Variation 2



## Value Added Tax Issues for Maquiladoras Selling to Mexican Market

- Recent Changes in other VAT for “ Pedimentos V5”:
  - Apply to direct transfers in Mexico of finished products by a “certified maquiladora” to other parties (i.e. not a maquiladora and not an automotive OEM) using “virtual pedimentos” with **definitive virtual importation** (i.e. with import VAT). Under new rule V5:
    - No All Certified Maquiladoras can process pedimentos V5 (NEEC).
    - VAT applies on sale of products to the Mexican company, in addition to VAT paid on the virtual definitive importation of the products.
    - Sale by Foreign Co. is deemed to be made in Mexico.

# Delivery to a Mexican Party Selling Into the Mexican Market Using “Pedimentos V5” – As Recently Amended



## Value Added Tax Issues for Maquiladoras

- Implications of recent changes in VAT rule “V5”
  - Double payment of VAT in the first instance –
    - On the sale to the Mexican company and
    - On the definitive importation.
  - Need to recover that VAT paid on those transfers
  - Question about need for foreign company to register for the VAT in Mexico.
    - Answer by recent regulations.
      - Special requirements to invoices.

## Cash Flow Implications

- VAT Payable Upon the Definitive Importation of the Finished Goods.

- Customs Value of the Finished Goods: US\$ 1,000

- VAT payable upon definitive importation: US\$ 160 (\*)

(\*) Paid Upon processing of Pedimento V5. *(Creditable against VAT charged to MX Customers on subsequent sales).*

- VAT Payable upon the Sale of the Finished Goods.

- Sales Price from Foreign Co to Mexican Co: US\$1,000

- VAT on Sale (16% Rate on all transactions): US\$ 160

- Total Amount Withheld by Mexican Co: US\$ 160 (\*\*)

- Total Amount Paid to Foreign Co: US\$ 1,000

(\*\*) Payable by 17th day of following month. *(Creditable in the tax return of the month following the tax return in which the payment to Hacienda is made).*

## VAT Formal Requirements

- Registration by Foreign Co only allowed if a Permanent Establishment exists.
  - Not an automatic determination – case by case analysis required.
- Purchase price deductible and VAT withheld creditable by Mexican Co if invoice issued by Foreign Co includes the following information:
  - Corporate name, domicile and if applicable, Tax ID of the issuer of the invoice;
  - Place and date of issuance;
  - Tax ID (or RFC) of the recipient;



## VAT Formal Requirements

### –Invoicing Requirements:

- Quantity, measurement unit and type of goods or merchandise sold or description of the service rendered or the use or enjoyment. If the goods covered in the invoice cannot be individually identified, such fact must be expressly stated;
- Unit value in numbers and total amount in numbers and in writing;





## Formal Requirements

### –Invoicing Requirements:

- If the invoice is paid in full, such fact must be expressly stated in the invoice.
- If payment is made in installments (parcialidades), a separate invoice must be issued including all the requirements mentioned in this section, as well as the date and number of the invoice that covered the original transaction and the number of the installment payment that each invoice is covering;



## Formal Requirements

- Invoicing Requirements:
  - The invoice issued must include the amount of VAT charged;
  - The VAT rate (i.e. 16%);
  - The amount of VAT withheld expressly and separately.
    - With respect to the VAT withheld it is advisable to include the following text: "Value Added Tax withheld in accordance with the Value Added Tax Law".



## Formal Requirements

- Invoicing Requirements:
  - Specify the form of payment if made via cash, wire transfer, check, credit card and include the last four digits of the bank account or credit card number.
  - If the invoices are issued in a language other than Spanish, the corresponding translation must be attached if requested by Hacienda.

# Q & A

*Thank you!*

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