



**“Authorization for continuation of IMMEX/Maquila operations as of
20 of April in Baja California”**

Dear Clients and Friends:

I hope that you and your loved ones are safe and in good health, we are navigating through tough times, and the information and legal issues are changing on a day to day basis, so please be advised that this information is current as of April 20, 2020.

Over the past weeks the Mexican Government has issued several decrees and recommendation on how to address the SARS-CoV2 (COVID-19) crisis, of interest to the operation Manufacturing operations in Mexico, is the decree of 31 of March 2020, from the Federal Ministry of Health (Secretaría de Salud) issued for extraordinary actions to fight the SARS-CoV2 (COVID-19) epidemic, ordering all companies to suspend activities from March 30 to April 30, unless they are essential, it indicates:

“Only the following activities, considered essential, may continue to operate:

- a) Those that are directly necessary to attend the health emergency, such as the work activities of the medical, paramedical, administrative and support branches throughout the National Health System. Also those who participate in its supply, services and supply, among which the pharmaceutical sector stands out, both in its production and its distribution (pharmacies); the manufacture of supplies, medical equipment and technologies for health care; those involved in the proper disposal of biological-infectious hazardous waste (BIHW), as well as cleaning and sanitizing medical units at different levels of care;*
- b) Those involved in public safety and citizen protection; in the defense of national integrity and sovereignty; the procurement and impartation of justice; as well as legislative activity at the federal and state levels;*
- c) Those of the fundamental sectors of the economy: financial, that of tax collection, distribution and sale of energy, gas and gas stations, generation and distribution of drinking water, food and non-alcoholic beverages industry, food markets, supermarkets, self-service stores, grocery and prepared food sales; passenger and cargo transportation services; agricultural, fishing and livestock production, agribusiness, chemical industry, cleaning products; hardware stores, courier services, guards in private security tasks; day-care centers and nurseries, asylums*



and stays for the elderly, shelters and care centers for women victims of violence, their daughters and sons; telecommunications and information media; private emergency services, burial and burial services, storage services and cold chain of essential supplies; logistics (airports, ports and railways), as well as activities whose suspension may have irreversible effects for its continuation;

d) Those directly related to the operation of government social programs, and

e) Those necessary for the conservation, maintenance and repair of the critical infrastructure that ensures the production and distribution of essential services; namely: drinking water, electricity, gas, oil, gasoline, jet fuel, basic sanitation, public transportation, hospital and medical infrastructure, among others that could be listed in this category

III.- In all the places and venues where the activities defined as essential are carried out, the following practices must be observed, obligatorily:

a) No meetings or congregations of more than 50 people may be held;

b) People should wash their hands frequently;

c) People should sneeze or cough applying the respiratory label (covering nose and mouth with a disposable tissue or with the forearm);

d) Do not greet with a kiss, a hand or a hug (remote greeting), and

e) All other healthy distance measures in force, issued by the Federal Ministry of Health;

As off 16 of April, and in Baja California, the local and federal authorities have now declared that the lockdown and contingency situation may last at least until the end of May, at this point it is unclear until what time the shutdown will take place and closing manufacturing companies will most certainly last at least a until the end of this month (April 2020) and maybe for a longer period depending on the outcome and the criteria of local and federal authorities, it is yet uncertain the amount of time that the contingency will be lifted and operations may get back to normal.

Clearly it is the intent of the Mexican Government to slow down the effect of the COVID-19, in the Maquila, because it may be a source per infection.

Even though the government passed the extraordinary decree of March 31 ordering companies to stop non-essential manufacturing, a large majority of companies did not stop their manufacturing operation, at least in Baja California, and did continue to operate because some of them are essential in accordance with the memorandum issued by the Cybersecurity & Infrastructure Security Agency ("CISA" hereinafter) of the U.S.



Department of Homeland Security, and or other economic reasons, hence the tone of the federal and local authorities about the continuation of manufacturing operation has changed for the worse.

The CISA document considers per the US, a very large list of activities that are not considered essential per the Mexican extraordinary decree, and as such they may continue manufacturing operations, however this document is somewhat at odds with the Mexican extraordinary decree because it does not cover the amount of activities.

Some maquiladoras continued to operate during the second week of April, and have been either “voluntarily” or illegally shut down on their operations during this second week of April 2020.

At the end of last week, the state authorities have asked all IMMEX/Maquiladoras to stop operating and now must perform a legal procedure to operate and renew operations. Starting the 20 of April 2020, all manufacturing plants must submit a request to the federal Sanitary authority, and they will analyze the manufacturing operation documentation to determine if their operation is in compliance with the Mexican extraordinary decree and may continue to operate.

Express resolution to continue operations

Currently there have been no guidelines as to what the local and federal authorities are going to say about the CISA companies, this is manufacturing of goods or activities not listed as essential under the Mexican Extraordinary decree, for example the (construction material) even though they have to right to continue the operation under the modernized NAFTA or now known as The new United States-Mexico-Canada Agreement (USMCA). We consider that this right must be documented and supported to continue the operations, if that is the will of the company taking the necessary safety precautions indicated in the extraordinary decree.

If your manufacturing operation has doubts about being able to be considered essential, and/or wishes to continue operations moving forward, it must present legal documentation to support the essential nature of its operation under the CISA or Mexican guidelines accordingly, and must now move forward to present a petition to authorize the operation, however it is very likely that the authorities will not agree with the CISA essential guideline and further legal intervention will be applicable.



¿When will things get back to normal and no authorization to start manufacturing will be applicable?

One of the issues is that as of April 20, 2020, we do not have a clear date as to when the manufacturing operation may be renewed in the state of Baja California, hence obtaining an express resolution is very important to the continuation of manufacturing operations if the company is considered essential.

¿What happens if my plant “voluntarily” shut down, when can they start operations?

If you shut down without an infraction, you must present legal documentation to support the essential nature of its operation under the CISA or Mexican guidelines accordingly. We may help your IMMEX and Maquila operation document your petition so that legal elements are present to support the continuation of the operation. It is very important that the documentation to be presented be reviewed by an attorney in case that the authorities do not agree with the essential nature of the operation.

If the authorities resolve to deny the essential nature of the manufacturing of goods under the Mexican extraordinary decree, and/or not following the CISA guidelines, legal action will be presented so that the company may continue operation by means of a ruling by a court.

¿What happens if my plant got visited and was shut down, “clausurada” when can they start operations?

It must now litigate any infractions and or wrong doings identified by the authority and correct the issues if applicable, as well as to present a petition to authorize the operation moving forward.



OCAMPO ROMERO

ATTORNEYS AT LAW

¿What happens is the company got visited early in the month and I don't have a resolution?

With the document that the authority left from the early visit (Acta de Visita Domiciliaria) you can request a favorable resolution because they have already reviewed your operation, hence you must move forward present the petition, and you should have a favorable resolution.

Please be advised again that this are challenging times and the situation continues to change on a day to day basis, and stay in touch.

Stay Safe, Stay Home!

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