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INTRODUCTION OF THE PANEL DISCUSSION WITH ALEJANDRO GARCÍA SEIMANDI AND NASHIELLY ESCOBEDO

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As a result of the North American Free Trade Agreement (NAFTA), the United States, Mexico, and Canada agreed in Article 303 that the waiving of import duties under duty deferral programs is prohibited when such imports are subsequently exported to another NAFTA Party. For example, the application of import duties on goods imported into Mexico from a non-NAFTA third country such as China, and then subsequently exported from Mexico to another NAFTA country, requires that Mexico apply import duties on those goods. The nature of this provision is to consider such goods as being sold as a national consumption sale in Mexico if that product is to be later re-exported to the United States. Therefore, the importer must then pay duties, either when the product enters Mexico or when the product is exported to the United States. This is the first sign of economic integration under NAFTA.

In order to accommodate NAFTA, Mexico had to implement legislation to include duty-deferral waiving procedures. The reforms were published in the Diario Oficial in December of 2000, just before Article 303 entered into force in Mexico in January of 2001. These last-minute changes caused discontent among maquiladora and PITEX companies because the administrative procedures have proved to be burdensome. As a result, many maquiladora companies started moving plants out of Mexico, into countries like China, in order to produce the

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1. NAFTA Article 303 requires parties to refund or exempt customs duties on imports of materials used for the manufacture of goods that will subsequently be exported to another NAFTA country by the lesser of the total amount of customs duties paid on the material when imported into Mexico, and the duty paid on the final product when exported to the United States or Canada. Adjustments in Mexico’s Maquiladora Program to Incorporate NAFTA’s Article 303, Newsletter Published by the Embassy of Mexico, vol. 51, 12 (February 7, 2004), at http://www.naftaworks.org (last visited April 7, 2004).

2. A maquiladora is a Mexican corporation that operates under a maquila program that has been approved by the Mexican Secretary of Economy. Mexican corporations operating under this program are entitled to allow foreign investment participation in capital and management. Additionally, these corporations are entitled to special customs preferences which allow duty-free importation of machinery, equipment, parts and materials, and administrative equipment like computers and communications devices which are subject only to posting a bond guaranteeing that such goods will not remain in Mexico permanently. Normally maquiladora products are exported either directly or indirectly through sale to another maquiladora or exporter. Aureliano González Baz, What is a Maquiladora?, at http://www.uedl.edu/leipzig/texts2/vox128.htm (last visited April 7, 2004).

3. The Temporary Importation to Produce Goods for Export (Spanish acronym PITEX) program allows temporary importation of equipment or materials for the production of goods in Mexico for export by countries that comply with all the Mexican taxation laws. Goods can be shifted to the domestic market by paying duties and taxes as in the maquiladora program. The Mexican Investment Board, Mexico’s Maquiladora Export Industry, at http://www.mib.org.mx (last visited April 7, 2004).
goods that were previously being produced in Mexico. Today Mexico is losing foreign investment due to the shift in location of maquiladora plants. One reason for this shift is due in part to the economic advantages in other countries. For example, wages for manufacturing labor are lower in countries such as China than they are in Mexico. Another reason may be the absence of necessary economic and structural reforms in Mexico.

What is Mexico doing to bring foreign investment back? Are the reforms of the Mexican customs law\(^4\) that created the free-trade zones the answer to bringing investment back to Mexico? What is the future of the maquiladora industry in Mexico? These issues and questions will be answered by our next two panelists.

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\(^4\) Mexican customs law regulates the importation and exportation of goods through such programs as the automated inventory control system. It also sets the standards for the temporary imports of machinery and equipment, and establishes tariff classifications and other programs such as the strategic bonded warehouse registration and certified companies registration related to the import and export of goods. Baker McKenzie, Amendments Related to Foreign Trade and Customs (Monday, March 14, 2003), at http://www.maquilaportal.com/bulletin/ (last visited April 7, 2004).