

LAW N° 1064

MAQUILA

ON THE MAQUILA EXPORT INDUSTRY THE CONGRESS OF THE PARAGUAYAN NATION SANCTIONS WITH THE FORCE OF LAW:

LAW:

CHAPTER I THE MAQUILA INDUSTRY

Article 1: The purpose of this law is to promote the establishment of and regulate the operations of maquiladora¹ industrial enterprises whose line of business, in whole or in part, carries out industrial processes or services incorporating labor and other national resources for the transformation, elaboration, repair or assembly of merchandise of foreign origin temporarily imported for said purpose, subsequently to be reexported, in the performance of a contract signed with a business whose address is abroad.

Article 2: For the purpose of this Law, the following terms shall have the meaning assigned herein:

- a. **Maquiladora:** A business established specifically to carry out Maquila Export Programs or an already established business directed at the national market, with idle capacity in its installations and for which a Maquila Program is approved.
- b. **Maquila Program:** That which in detail contains the description and characteristics of the industrial process or service, schedules of imports, production, exports, employment generated, percentage of added value, percentage of loss and wastage, period of time the program covers and other data that may be established in the pertinent regulations.
- c. **Maquila Export Contract:** The agreement reached between the Maquiladora Enterprise and an Enterprise with a foreign business address, by which an industrial process, or a service in support of the latter, is contracted for the purpose of the transformation, elaboration, repair or assembly of foreign merchandise to be imported temporarily and subsequently reexported, providing the raw material, inputs, machinery, equipment, tools, technology, guidance and technical assistance, in accordance with the modality the parties freely establish.
- d. **Import-Maquila:** The temporary entry into national territory, with import duties waived, of machinery, equipment, tools, and other production goods, as well as raw materials, inputs, parts and pieces for carrying out the Maquila Programs and their subsequent exportation or re-exportation.
- e. **Export-Maquila:** The exit from national territory of the merchandise or goods manufactures by the maquiladora industries in accordance with the authorized program and with the use of the raw materials, inputs, parts and pieces temporarily imported, whose value has been increased through the contribution of national labor, raw materials and other natural resources.

¹ Translators Note: The Spanish terms, *maquila*, *maquiladora*, now in common use in the English language will be left as such throughout. Translated: assembly, assembly plant.

- f. **Re-export-Maquila:** The exit from national territory of those production goods, such as machinery, tools, equipment, and others which have not undergone transformation or increased in value, which had been temporarily imported to carry out the Maquila Export Programs.
- g. **Sub-maquila:** A complement to the productive process of the activity that is the object of the program, which is to be later reintegrated to the maquiladora that contracted the service, for its subsequent exportation.
- h. **Maquila by Idle Capacity:** That enterprise, physical or juridical person, established and directed at production for the national market, that is approved, under the terms of this Law, for a Maquila Program.
- i. **Maquiladoras with a Sheiter Program:** Enterprises for which **Maquila** Programs are approved that serve to carry out export projects on behalf of foreign companies which facilitate the technology and the productive material, without their direct intervention in operations.
- j. **C.U.T.²** Single Transaction Center, incorporated to the National Council of Maquila Export Industries, in which the different institutions involved in the administration of the Maquiladoras are represented; Ministry of Finance, Ministry of Industry and Commerce, General Customs Office, National Administration of Navigation and Ports, Central Bank of Paraguay, Office of Statistics and Census, Institute for Social Security and others that may be needed for a unified, agile and quick dispatch of the applications presented by these enterprises.

Article 3: Those who may avail themselves of the benefits granted under this Law are; physical or juridical persons, whether national or foreign, with a business address in the country, qualified to carry out acts of commerce.

Article 4: Approval for a Maquila Export Program and other permits corresponding to the system shall be granted by Joint Ministerial Resolution to be signed jointly by the Ministers of Industry and Commerce and Finance, channeled through the National Council for the Maquila Export Industries (CNIME³). For the purpose of the Law, the phrase, "approved by CNIME", will implicitly bear the meaning of, the joint ministerial resolution by Finance and Industry and Commerce.

CHAPTER II THE NATIONAL COUNCIL FOR THE MAQUILA EXPORT INDUSTRY

Article 5: A National Council for the Maquila Export Industry, CNIME, is to be created as the Advisory Body to the Ministries of Industry and Commerce, and Finance, composed of the following members named by the Executive Branch from proposals presented by the respective governmental departments:

- a. A representative of the Ministry of Industry and Commerce.
- b. A representative of the Ministry of Finance.
- c. A representative of the Central Bank of Paraguay.
- d. A representative of the Technical Planning Secretariat for Economic and Social Development.
- e. A representative of the Ministry of Foreign Affairs.

²T.N. Initials from the Spanish, Single Transaction Center

³T.N. Initials from the Spanish, will be used throughout.

The CNIME may invite to its sessions representatives of other governmental departments or entities of the Public Administration, as well as representatives of Departments (States/Provinces) or Municipalities or institutions or organizations from the public and private sectors when considered as being in the best interest to better fulfilling its objectives.

The CNIME shall be presided by the representative of the Ministry of Industry and Commerce. Likewise, each institution shall have an official representative and an alternate.

The members of the Council must be qualified to exercise said positions and shall not receive remuneration for these functions.

Article 6: The CNIME shall have the following functions:

- a. To formulate and evaluate the general and area guidelines, the policies for the promotion and operation of the Maquiladora Industries and to establish the strategies to be followed for the purpose of achieving the maximum integration with the system of national raw materials and inputs through subcontracting, and to support the process of assimilation and adaptation of the technologies to be incorporated by these enterprises.
- b. Evaluate, issue preliminary opinions and communicate these to both Ministries in order for them to grant their authorization by Resolution in the following cases:
 1. All the permits corresponding to these enterprises:
 - a. Program of activities.
 - b. Initial permission for the importation of machinery and equipment.
 - c. Permission for the importation of raw materials and inputs needed for production.
 - d. Permission to modify, expand, reduce, suspend or cancel the Maquila Program.
 2. The transfer of machinery, tools and equipment between enterprises with duly authorized programs.
 3. The transfer of machinery and equipment by the maquiladora enterprises to non-maquiladora producers who are their suppliers.
- c. Establish a Registry for the applications and the records of authorizations granted.
- d. Hand down opinions on matters related to the Maquila Export Industries that are not foreseen in the preceding clauses.
- e. Coordinate the actions of all the institutions involved in the dealings with the maquiladoras.

Article 7: The National Council for Maquila Export Industries shall meet at least once a month. The president may convene an extraordinary session when deemed pertinent or upon written request by any of its members.

Article 8: The Executive Secretary of the CNIME shall be exercised by a representative proposed by the Ministry of Finance and shall be in charge of applying everything established in this Law and its Regulations, as well as the administrative dealings with regard to the Maquila Export Industries. The Secretary must be a professional with a university degree, Lawyer and/or Economist, qualified to exercise said position and shall receive the remuneration agreed upon for the position in the Nation's General Budget.

CHAPTER III MAQUILA PROGRAMS

Article 9: A Single Transaction Center, incorporated to the CNIME, is to be established to facilitate the quick processing of the different applications, permits and registrations relative to these enterprises.

Article 10: Parties interested in a Maquila Program must present to the CNIME an application for approval, accompanied by the Maquila Contract or the Letter of Intent, in the manner established for this purpose in the regulations.

Article 11: If the application is solely accompanied by a Letter of Intent of the Maquiladora and the foreign enterprise, they shall have a term of 120 days to present the Maquila Contract, counted starting from the date of the resolution that approves the Program, which shall be conditioned upon the presentation of the Contract and the verification of consistency with regard to the Letter of Intent. Non presentation of this Contract, within the term established will lead to the lawful expiration of the agreed upon approval.

CHAPTER IV IMPORTATION

Article 12: Those with approved or extended Maquila Programs who have their respective Contract registered, may temporarily import under the terms of the Contract and in accordance with this Law and its Regulations, the following merchandise:

1. Raw materials and inputs needed for production and its exportation.
2. Machinery, devices, instruments and spare parts for the productive process, laboratory, measurement and product testing equipment and that which is required for quality control, for the training of personnel, as well as equipment for the administrative development of the enterprise.
3. Tools, equipment and industrial security accessories and products necessary for the prevention and control of environmental pollution by the production plant, work manuals and industrial blueprints, as well as telecommunications and computer equipment for the exclusive use of the Maquiladora Industry.
4. Trailer boxes and containers.

With regard to raw materials and inputs, once imported, their stay in the country may not exceed a term of six (6) months starting from the date of importation. Said term may be extended at the request of the party and for reasons duly justified by Joint Ministerial Resolution and for a term that does not exceed the prior one.

The other goods to which this article refers may remain in the country as long as the programs for which they were authorized remain in effect, with the exception of the trailer boxes and containers whose maximum stay in the country shall be six months.

Article 13: The enterprises must carry out their initial temporary importation within the term of a year starting from the date of the resolution that approves the Program. This term may be extended one time only for a period of three months, by resolution and after an opinion issued by the CNIME. In the case

where the enterprise requires specialized installations, the extended terms may be greater than three months as long as such request is justified in the CNIME judgment, and may not exceed the maximum term fixed for the conclusion of the works in accordance with the work schedule.

The initial temporary importation as well as subsequent importations foreseen in the schedule attached to the approved program, must be authorized by the CNIME through a certificate. For the expedition of this certificate, the interested party must attach to the request copies of the approved Program and the Dispatches of the Imports carried out.

CHAPTER V EXPORTATIONS

Article 14: For exporting or re-exportation, the maquiladora shall present a sealed dispatch labeled "Maquila Exportation" or Maquila Re-exportation, together with the corresponding documentation in a report form set up for that purpose, authenticated copies of the Temporary Importation Dispatch, and the Joint Ministerial Resolution approving the Program.

Said documents shall be presented to the General Customs Office and the same procedures as for an Export Dispatch shall apply.

CHAPTER VI OBLIGATIONS OF THE MAQUILADORA ENTERPRISES

Article 15: Enterprises for which a Maquila Program has been approved shall meet the following requirements:

1. Register the Joint Ministerial Resolution that approves the Maquila Program in the General Customs Office under the Ministry of Finance, which will open up for this purpose a special section for Maquila Import-Export in the CNIME.
2. Provide sufficient guarantee to the satisfaction of the General Customs Office, for the amount of the taxes that may eventually be applicable, for the purpose of assuring fulfillment of the obligations that this system imposes.

This guarantee shall be canceled and returned as a consequence of the exit of the temporarily imported merchandise from the country, in the conditions foreseen and within the term established in the regulations.

3. Meet the terms established in the program authorized for them, under pain of being totally or partially deprived of the benefits that had been granted.

The raw materials and inputs introduced by this system shall necessarily be destined to the authorized operations, which have the objective of increasing their value or modifying their original state with the contribution of labor and other national resources.

Non-fulfillment of these requirements shall put an immediate end to the benefits of this system and the customs authority shall demand payment of the totality of the taxes and corresponding sanctions applicable to the merchandise, in the status they are found in at the moment an irregularity is proven.

4. Train the national personnel needed for the execution of the Program.
5. Advise both Ministries in the case of a duly justifiable interruption of activities in a term that shall not exceed ten (10) days, starting from the date that operations are suspended.
6. Provide all information requested by the CNIME or by the Ministry of Industry and Commerce or the Ministry of Finance as may be, Within the term limit established for that purpose and facilitate whatever required by the employees of said institutions so they may carry out the necessary reviews of the fulfillment of the Program.
7. Present monthly to the General Customs Office, through the CNIME, a list of information with regard to the volume, type and values of the imports, uses put to, and exports or re-exports carried out.
8. Register its operations in specially set up books and duly signed according to the current legislation and meet the fiscal and municipal and labor obligations that correspond to it.

CHAPTER VII SALES IN THE INTERNAL MARKET

Article 16: The maquiladora industries that wish to sell on the national market merchandise derived from the transformation, elaboration and finishing of the raw materials and inputs, as well as the production goods temporarily imported for the fulfillment of the Program, must request the corresponding authorization and pay the taxes applicable for nationalization in effect on the date of the numeration of the Temporary Import Dispatch, in addition to the internal taxes that impact on said sales.

The sales may not exceed 10% over the volume exported in the last year and must maintain the same checks and quality standards that apply to its export products. In addition, the Tax Authority shall establish a coefficient of profitability for the payment of the Income Tax on the percentage to be sold on the national market.

Article 17: The production goods imported under this system may, as an exception, be nationalized by means of a definitive import dispatch after payment of all the corresponding taxes.

CHAPTER VIII GENERAL PROVISIONS

Article 18: The CNIME and the beneficiaries of this Law shall carry a detailed registry of the capital goods and raw materials and inputs incorporated under this system.

Article 19: Every Program shall meet the requirements in the matter of environmental protection in accordance with the provisions in effect.

Article 20: For the purpose of the Program, loss is understood as that portion of the raw materials and inputs that are consumed in a natural manner in the productive process and as wastage, those residues

that remain after the process they are subjected to. Both shall be deducted from the imported quantities in the manner determines by the regulations.

Within wastage there may be included, material already manufactures in the country that is rejected by the quality control of the enterprise, as long as the Council determines that said rejects may be esteemed as normal. Wastage that is not considered dangerous residue in the terms of the legislation environmental protection, may be returned to the country of origin or destroyed in accordance with the applicable legal provisions.

Article 21: In the event a maquiladora wishes to sell or donate on the national market wastage obtained in its productive process, it must request the CNIME's agreement, specifying the type, quantity, value and receiver, in addition to fulfilling the requirements in effect for its definitive importation, after payment of the corresponding taxes in accordance with the provisions in Article 17 of this Law on nationalized merchandise.

Article 22: When through the productive process wastage is derived which constitutes a dangerous residue, the procedure to be followed shall be in accordance with established national legislation on environmental protection.

Article 23: Sub-maquila operations shall be authorized when dealing with a complement to the productive process which is the objective of the Program, to be subsequently reintegrated to the maquiladora which contracted the service and which carries out the finishing of the product for its exportation. This operation may be carried out between maquiladora enterprises or also between one of the latter and an enterprise with no Program. The authorization for the above operations shall be granted by the CNIME after handing down an opinion and may not be granted for a term greater than one (1) year.

Article 24: Any physical or juridical person with an established industry directed at the national market and which has idle capacity in its installations, that so requests, shall be approved for a Maquila Export Program under the terms of this Law.

Article 25: Shelter Programs shall be authorized for any enterprise installed under the terms of this Law and its regulations.

Article 26: When an enterprise decides to stop its operations before the expiration of the terms of the authorized Program, it must request the CNIME with thirty (30) days prior notification, for cancellation of the Program and its registration.

The CNIME shall authorize the cancellation as long as the interested party has shown to have exported all its production and is up to date in the fulfillment of its labor and tax obligations.

Article 27: In the event of non-fulfillment of that which is established in this Law and in the authorized Program, the enterprises shall be sanctioned according to the seriousness of the infringement with the temporary suspension of the Program or the definitive cancellation of its registration with no impairment to the sanctions that proceed according to the other legal provisions applicable.

The second offense of an act or omission that has already incurred a temporary suspension shall be sufficient reason for the definitive cancellation of the registration. The CNIME shall communicate to both Ministries any irregularity detected in the fulfillment of these obligations.

Article 28: The Ministry of the Interior, through the General Immigration Office and in accordance to the laws applicable in the matter, may authorize the stay in the country for foreign administrative personnel and technicians needed for the running of the maquiladora enterprises.

CHAPTER IX THE TAX REGIME

Article 29: The Maquila Contract, and the activities carried out in the performance of it, will be levied a single tax of 1 % on the value added in national territory.

The Sub-maquila Contract, will be levied a single tax of 1% in terms of Income Tax, as well as on the value added in national territory.

The value added in national territory for the purpose of this tax is equal to the sum of:

- a. The goods acquired in the country to fulfill the Maquila and Sub-maquila Contract.
- b. The services contracted and the salaries paid in the country for the same purpose as set out in the previous clause.

Taxes will be settled by sworn declaration in the manner, term and conditions established by the Ministry of Finance.

Article 30: With the exception of what has been established in the previous Article and in Articles 16 and 21 of this Law for the situations contemplated in them, the Maquila Contract and the activities carried out in the performance of it shall be exempt from all other national, departmental, or municipal taxes.

This exoneration is extended to:

- a. The importation of the goods foreseen in the Maquila Contract, whose authorization is agreed to in accordance to that which is set out in Article 12 of this Law.
- b. The re-exportation of the goods imported under said contract.
- C. The exportation of the goods transformed, elaborated, repaired or assembled under said contract.

Article 31: For the purpose of the Value Added Tax, the exportations the maquiladoras carry out shall be treated in the manner established by Law N° 125/91, exporters.

Article 32: The Executive Branch shall regulate this Law.

Article 33: Communicate this to the Executive Branch.

GIVEN IN THE HALL OF SESSIONS OF THE HONORABLE CHAMBER OF SENATORS OF THE NATION, ON THE TWENTIETH DAY OF THE MONTH OF DECEMBER OF THE YEAR NINETEEN NINETY SIX.

This information has been provided by:

PROPARAGUAY – General Direction of Export and Investment Promotion

- Presidente Franco y Ayolas - Edificio Ayfra - Piso 12 - Asunción, Paraguay
- Tel.: (595-21) 493 625 - Fax: (595-21) 493 862
- email: dic@proparaguay.gov.py • <http://www.proparaguay.gov.py>
- May, 1999