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Reg. 19668.- M. 1659910.- V.C\$ 1,050.0

MINISTERIAL ACCORD No. 059-2007

The Ministry of Development, Industry and Commerce

WHEREAS:

I.

Pursuant to Law No. 290, the “Law of Organization, Authorities and Procedures of the Executive Branch”, its Regulations and Amendments, the Development, Industry and Commerce Ministry (MIFIC, initials in Spanish) is charged with overseeing compliance with the rights and obligations derived from current Free Trade Agreements (FTAs) and agreements under the framework of the World Trade Organization (WTO), including the assignment of import tariff quotas;

II.

The Nicaragua National Assembly, on October 12, 2005, by means of Decree No. 4371, published in Official Gazette “*La Gaceta*” No. 199 of October 14, 2005, approved the Central America – United States of America – Dominican Republic Free Trade Agreement (DR - CAFTA) effective for Nicaragua as of April 1, 2006;

III.

It is necessary to have a means of administration for the import tariff quotas established in Article 3.13 of the Central America – United States of America – Dominican Republic Free Trade Agreement, whereby each Party shall implement and administer the tariff quotas for agricultural merchandise established in Appendix I of its Schedule to annex 3.3 (Tax Eliminations) of Chapter Three of the Agreement in question, leading the Ministry of Development, Industry and Commerce (MIFIC, initials in Spanish) to consider that the MIFIC Treaty Application Department requires these Regulations to administer the import quota for legs and quarters.

THEREFORE

in the exercise of its authorities,

ISSUES:

The following

REGULATION FOR THE ADMINISTRATION OF THE IMPORT TARIFF QUOTA OF CHICKEN LEGS AND QUARTERS ORIGINATING FROM THE UNITED STATES OF AMERICA, ESTABLISHED IN THE FRAMEWORK OF THE DR - CAFTA

**Chapter I
Preliminary Provisions**

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Article 1. Purpose. These Regulations are established for the administration of the import tariff quota for chicken legs and quarters that Nicaragua grants the United States of America pursuant to its commitments established in the Central America – United States of America – Dominican Republic Free Trade Agreement (DR - CAFTA), in accordance with Article 3.13 of Chapter Three (National Treatment and Market Access for Goods) and number 4 of Appendix I of Tariff Quotas of the General Notes of the Schedule of Tariff Eliminations of the Republic of Nicaragua of Annex 3.3 of the referred Chapter.

Article 2. Operating Authority. MIFIC shall be in charge, through its Treaty Application Department (DAT, initials in Spanish), of the administration and application of the provisions established in accordance with these Regulations.

Article 3. Tariff Quota Sections: The goods of the quota of chicken legs and quarters correspond to tariff sections 0207.13.93 and 0207.14.93 of the Central American Tariff System (SAC, initials in Spanish), pursuant to Resolutions Nos. 134-2005 and No. 185-2006 (COMIECO XL), published in *La Gaceta*, Official Gazette No. 46 of March seven, two thousand five, and No. 22 of January thirty one, two thousand seven, respectively.

The chicken legs and quarters susceptible of classification under tariff section 1602.32.10 of the SAC shall also form part of this quota.

Chapter II Definitions

Article 4.- For the purposes of these Regulations, the following definitions shall apply:

- **DR – CAFTA or Agreement:** The Central America - United States of America – Dominican Republic Free Trade Agreement;

- **CA – PEQ:** Central America Poultry Export Quota, Inc., a company that has obtained an Export Trade Certificate of Review in accordance with the Export Trading Company Act of 1982, 15 U.S.C. 4001-4021 (2000) of the United States of America.

- **Tariff Quota Assignment Certificate or Certificate:** A Document issued, signed and stamped by CA – PEQ assigning and allowing the transfer of parts of the import tariff quota for legs and quarters under the Export Trading Company Act of 1982, 15 U.S.C. 4011-4021 (2000) of the United States of America;

- **Import Tariff Quota or Quota:** The specific volume of chicken legs and quarters that may be imported over a given period, in respect of which Nicaragua has negotiated the application of a preferential Import Tariff Duty (DAI, initials in Spanish) with the United States of America under the framework of the DR – CAFTA, pursuant to number 4 of Appendix I of the General Notes of the Tariff Schedule for the Republic of Nicaragua of Annex 3.3 to the Agreement;

- **Part:** Partial amount or volume of the quota;

- **DAI (*Derecho Arancelario a la Importación* or Import Tariff Duty).** Is the tax or tariff charged by the General Customs Services Department (DGA) upon nationalizing the imported goods.

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- **DAT:** Treaty Application Department of the General Foreign Trade Department of the Ministry of Development, Industry and Commerce (MIFIC);
- **DGA:** General Customs Services Department of the Finance and Public Credit Ministry (MHCP);
- **Importer:** Individual or legal entity domiciled in Nicaragua that has acquired a Certificate issued by CA-PEQ, granting it the right to import the **part** stated in such Certificate with a preferential DAI.
- **MIFIC:** Nicaraguan Development, Industry and Commerce Ministry.

Chapter III **Recognition and Obligations of CA – PEQ**

Article 5. Recognition of CA – PEQ. Having been granted an Export Trade Certificate of Review by the United States Department of Commerce, CA – PEQ is charged with the allotment of the quota, by means of an open bid, upon the terms published in such country by the Federal Register, a translation of which shall be available on the MIFIC website.

Article 6. Recognition of Certificates issued by CA – PEQ. The format of the Tariff Quota Assignment Certificate and the security paper, signatures and legible stamps notified by CA – PEQ to the DAT are approved as valid.

CA – PEQ shall provide the DAT notice of any change in the documentation referred to in the preceding paragraph within a term not to exceed fifteen (15) business days, which shall be immediately informed to the DGA for proper application.

The DAT shall notify the DGA in writing of any matters pertaining to the documentation and information in question, as provided in this Article.

Article 7. Publication of Call to Bid. CA – PEQ shall publish in a major nationwide newspaper, on the same date as it does so in the United States of America, a Spanish translation of the call to be published in such country for each of the bids to be held for the assignment of the quota certificates.

Article 8. Notice of Certificates. CA – PEQ shall submit to the DAT copies of:

- a. The certificates, along with a summary containing the name or registered name of the individuals or legal entities to which each bid has been awarded, and the respective amounts assigned;
- b. The certificates transferred and a summary containing the name or registered name of the individuals or legal entities to which the certificates are transferred.

In either case, CA – PEQ shall submit this information within ten (10) business days of the issue of the certificate or transfer, as the case may be.

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Article 9. Cooperation. The DAT may request of CA – PEQ any additional information deemed necessary for the proper administration of the tariff quota.

Chapter IV **Use of Quota Assignment Certificates**

Article 10. Registration of Importer and Quota Certificates: To use the certificates, the importer must comply with the following:

- i. Register as an importer with the DAT. The presentation of the first certificate acquired and filling out the relevant section of the form referred to in section iv) of this Article are established as registration requirements. The importer shall carry through such registration a single time.
- ii. Register each certificate acquired following registration as an importer with the DAT. The following documents shall not be required to be submitted, provided the status established therein has not changed as regards what was registered earlier with the DAT:

§ Copies duly certified by a Notary Public of the certificate of registration as merchants in the Public Commercial Registry and of an identification card, should the importer be an individual;

§ Copies duly certified by a Notary Public and registered at the Public Commercial Registry of the Public Charter and current Bylaws and of sufficient powers of attorney. An identification card for the attorney in fact should also be certified by a Notary Public, if the importer were a legal entity;

§ Photocopy of the Sole Taxpayer Registry (RUC) card, certified by a Notary Public, for both individuals and legal entities;

- iii. For the registration of certificates, these must be presented in original and copy.

iv. Filling out the form “Registry of Imports Users of the Import Quota for Chicken Legs and Quarters originating from the United States of America”, which is an integral part of these Regulations and is available at the DAT and on the MIFIC website (www.mific.gob.ni).

Any change in the information and/or documentation furnished must be notified in writing by the importer to the DAT within a term of no more than ten (10) business days of its occurrence by updating the form indicated in section iv) of this Article, including the relevant attached documentation.

The importer registration form referred to in section i) of this Article shall be reviewed and, where applicable, approved by the DAT, assigning the importer a single, consecutive number, to be notified within the two (2) business days following the date of receipt of such form. Otherwise, within the same term in question, the DAT shall inform the importer of the denial of its request and of the reasons for such decision.

The information relating to the registration of the certificates and importers of the quota shall be informed to the DGA, for the purposes of the application of the preferential tariff quota.

The form referred to in this Article may be modified by the DAT to attend to information needs and facilitate its filling out by the importer.

Article 11. Preferential tariff quota. Imports of chicken legs and quarters under the quota shall be exempt of the Import Tariff Duty (DAI, initials in Spanish).

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Article 12. Use of preferential tariff. To be entitled to the preferential tariff referred to in the preceding Article, in addition to conforming to the provisions of Article 10 of these Regulations, importers must submit to the DGA an original of the certificate issued by CA – PEQ, valid and effective, which shall serve to support any partial or total imports in the volumes reflected by such certificate. By no means may the sum of such imports exceed the amount assigned thereunder.

Any volume of imports of chicken legs and quarters that does not comply with the preceding paragraph shall pay the applicable DAI outside of the quota, in accordance with the Tariff Elimination Program for the United States of America established in such Agreement.

When using a certificate issued by CA – PEQ in respect of the DGA, in addition to submitting the Certificate of Origin referred to in the Agreement, importers must comply with other provisions such as those applicable, among others, to customs, taxes, plant and animal health and public health matters.

Article 13. Control of the use of the Certificates. To ensure proper control in the use of the Certificates issued by CA – PEQ, the following obligations are established:

- Within the first five (5) business days of each month, the DGA shall submit a detailed report to the DAT of the imports made during the preceding month, which shall include, among others, the general data for the importer and the volumes of the imports actually made under each certificate.

Should the DAT find any discrepancy in the information furnished by the DGA, it shall notify the DGA so that it may immediately proceed, in accordance with the laws, regulations and internal provisions established for such purpose.

- The importer must present to the DAT, within ten (10) business days of its nationalization, a copy of the customs statement for each shipment whose volume, in whole or in part, is subject to a preferential tariff pursuant to a certificate issued by CA – PEQ.

Chapter V Penalties

Article 14.- Penalties. If the documents submitted by an importer are found to contain false information, the DAT will adopt the following measures:

- Not authorizing any current certificate for the year underway for the relevant importer.
- Immediately annulling the relevant import register.
- Informing the competent authorities to proceed as provided by law.

These measures shall apply notwithstanding any applicable civil and criminal liabilities.

Chapter VI Final Provisions

Article 15. Effective Term of Import Tariff Quotas. The effective term of the quota administered under these Regulations shall span between January first and December thirty-first

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of each calendar year, as established in Appendix I of the General Notes of the Tariff Schedule of the Republic of Nicaragua, included in Annex 3.3 of the Agreement.

Article 16. Request for Information. The DAT and the DGA may request of the importers any information deemed relevant for the proper administration of the quota.

Article 17. Verification of Information. The DAT and the DGA may request of the importers any information deemed relevant for the proper administration of the quota.

Article 18. Supplementary application of other laws. Any matters not expressly covered by these Regulations shall be subject to the norms and principles of the international commercial agreements subscribed by Nicaragua, Law No. 290, “Law for the Organization, Authorities and Procedures of the Executive Branch”, its Regulations and Amendments and other applicable laws and regulations.

Article 19. Effective Term. This Ministerial Accord shall be effective as of its publication in the Official Gazette *La Gaceta*.

Given in Managua, on the twenty-second day of the month of November of two thousand seven.
Orlando Solorzano Delgadillo. Minister.

Development, Industry and Commerce Ministry
MIFIC (initials in Spanish)

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Central America – United States of America – Dominican Republic Free Trade Agreement

Registration of Importers Using the Import Tariff Quota of Chicken Legs and Quarters originating from the United States of America

Before filling in this form, read the general notes on the back of this page.

Exclusive use by the DAT

Date of Receipt: _____

Time: _____

I. General Data

1) First and Last Name or Registered Name: _____

2) Address: _____

3) Identity card No.: _____

4) Position held at the Company: _____

5) Phone: _____

6) Fax: _____

7) Email: _____

II. Specific data of the Tariff Quota Assignment Certificate:

8) Certificate Number

9) Volume Assigned (Metric Tons)

III. Presentation of annexes

10) Presentation

11) Approved by the DAT

A. Individual:

- Photocopy of certificate of registration as merchant with Public Commercial Registry, certified by Notary Public ☐ ☐
- Photocopy of Identity Card, certified by Notary Public ☐ ☐

B. Legal Entity

- Photocopy of Public Charter and Bylaws, duly registered with the Public Commercial Registry and certified by Notary Public ☐ ☐
- Photocopy of identification card for the attorney in fact, certified by a Notary Public ☐ ☐

C. General (Individuals and Legal Entities)

- Photocopy of the Sole Taxpayer Registry (RUC) card, certified by a Notary Public. ☐ ☐

D.- Photocopy of Tariff Quota Assignment Certificate issued by CA – PEQ. ☐ ☐

I hereby state that the data shown in this application is true and may be verified at any time by the competent authorities.

Place and date

Signature of Applicant or Legal Representative

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V. Observations (for the exclusive use of the MIFIC Treaty Application Department)

General notes for filling out the form:

This form shall be filled out and submitted to the DAT in accordance with the provisions of Article 10 of Ministerial Accord No 059-2007, "Regulation for the administration of the import tariff quota of chicken legs and quarters originating from the United States of America, established under the framework of the DR – CAFTA", which must be presented in original and copy:

The importer must fill out this form completely, attaching the documents specified herein, and must further submit an original and copy of the first certificate acquired.

To register each certificate acquired, once the importer has registered as such, it must fill out the data from Parts I, II, II.D of this form, provided the documents submitted earlier to the DAT indicated in part III have not been amended. Otherwise, copies of such documents must be resubmitted. Each form must be delivered at the office of the DAT on a work day and during office hours.

The form must be filled out using a typewriter or by hand using legible print. It must not contain erasures or corrections.

- 2) The importer must indicate the address for the receipt of notices.
- 3) and 4) The importer must fill it out in the event that it were the Legal Representative and/or Attorney in Fact.
- 8) The importer must indicate the certificate number.
- 9) The importer must indicate the volume assigned under the certificate.
- 10) The importer must mark with an "X" the documents annexed to this form.
- 11) Is for the exclusive use of the MIFIC Treaty Application Department.

Any form presented with errors or omissions shall be immediately returned to the applicant.

Telephone numbers available for consultation. 267-0161, 278-4843 and 267-0200, Extensions: 1163 and 1166.

Development, Industry and Commerce Ministry. Carretera Masaya, Km. 6, Frente a Camino de Oriente. www.mific.gob.ni