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REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

EUROPEAN COMMUNITIES AND MEMBER STATES

Information on import licensing procedures of the European Communities and their member States, submitted in response to the questionnaire annexed to document L/5106, has been made available to contracting parties in document COM.IND/W/55-COM.AG/W/72/Add.59 as amended by Corr.1 to Corr.2 and Add.56/Rev.1. The following notification submitted by the European Communities describes the present licensing system applied in the Benelux Economic Union countries. The information reproduced below replaces the relevant data previously submitted by the European Communities in connexion with the Benelux Economic Union.

MEMBER STATES

BENELUX ECONOMIC UNION

Outline of systems

1. Licences are the administrative instrument established by legislation for the application of the economic regulations governing external trade.

There is only one licensing system.

The basic legislation provides for authority to regulate the importation of goods. To the extent that this authority is not used, importation is free.

Import licence applications must be made to the administrative service responsible for issuing licences, on official forms obtainable at that service.

The licence issued stipulates that the holder is required to submit it to customs at the time of the customs declaration.

The customs authorities keep the licences that have been used or have expired and return them to the administrative service referred to above; and licence-holders are required to return to that service any licences still in their possession once their validity has expired.

N.B. This communication does not concern measures which may be adopted in accordance with Articles XX and XXI of the General Agreement.

Purposes and coverage of the licensing

2. and 3. The licensing system described under heading 1. above applies to:

(a) Imports of all products originating in the following countries or territories:

Albania
Bulgaria
Czechoslovakia
East Germany
Hong Kong
Hungary
Japan

North Korea
People's Republic of China
People's Republic of Mongolia
Poland
Romania
USSR
Viet-Nam

In the Netherlands, imports of agricultural products coming under the EEC regulations on the organization of the market, are exempt from licence. In the Belgium-Luxembourg Economic Union (BLEU) there is no such exemption, since in the BLEU countries the licence is the administrative instrument for the collection of EEC levies;

(b) Imports of a limited number of products regardless of country of provenance.

4. Licensing is intended:

(a) for restricting the quantity of imports; or

(b) to check imports effected under self-restraint arrangements concluded with third countries; or

(c) for applying certain regulations or administrative provisions, e.g. prior surveillance to obtain rapidly information which could not be procured as quickly by other methods; or

(d) for collecting EEC agricultural levies (in the BLEU countries only).

In these cases, licences are issued automatically, on a non-limitative basis.

5. The laws, decrees, etc. constituting the legal basis of licensing are as follows:

In Belgium:

- The Act of 11 September 1962 (Moniteur belge, of 27 October 1962) relating to imports, exports and transit of goods, amended by the Acts of 19 July 1968 (Moniteur belge, of 20 July 1968) and 6 July 1978 (Moniteur belge, of 12 August 1978).
- The Crown Order of 24 October 1962 (Moniteur belge, of 27 October 1962) regulating imports, exports and transit of goods, and defining the licensing system.
- Ministerial orders issued in pursuance of the above legislation determining the imports subject to licensing.

In Luxembourg:

The Act of 5 August 1963 as amended by the Act of 27 June 1969.

In the Netherlands:

- In - en uitvoerwet (Import and Export Act) (Staatsblad 1962, 295; latest amendment in Staatsblad 1976, 215).
- In - en uitvoerbesluit landen (Decree governing country imports) 1963 (Staatsblad 1963, 127; latest amendment in Staatsblad 1977, 615).
- In - en uitvoerbesluit industriële goederen (Decree governing imports and exports of industrial goods) 1963 (Staatsblad 1963, 126; latest amendment in Staatsblad 1980, 456).
- In - en uitvoerbesluit landbouwgoederen (Decree governing imports and exports of agricultural produce) 1963 (Staatsblad 1963, 125; latest amendment in Staatsblad 1980, 252).
- In - en uitvoerbeschikking koffie (Decree governing coffee imports and exports) (Staatsblad 1980, 210).

Import licensing is thus based on the respective legislation of the Benelux countries. Consequently, the licensing of goods for import and the abolition thereof are not left to administrative discretion, but require implementing legislation.

Procedures

6. (a) Such information is available to all concerned. Import quotas are published.
- (b) The size of import quotas is as a rule determined annually for the calendar year.
- (c) In Belgium, certain quotas are allocated by way of priority to domestic producers of like goods. To ensure utilization of these quotas, there is a reallocation, without priority to all interested if the licences granted have not been used within a given period.

The period of validity of licences is limited. This ensures that licences granted are actually used for imports.

Unused quota allocations are not added to quotas for a succeeding period. Licences are reallocated during the current period and can still be used in the next period up to 30 June of the following year.

An importer requesting renewal of an unused licence must furnish proof that the importation will be made within the prescribed time-limits. The names of importers are not communicated to third parties, in view of the strictly confidential nature of administrative procedures (trade secrets).

(d) Application for licences may be submitted at any time within the quota period.

(e) Applications which are complete and properly submitted are examined when received and the licences are issued as soon as possible, normally within three weeks.

(f) The licences granted can be used immediately for importing.

(g) Licence applications must be submitted to a single national organ, which alone is authorized to examine them:

- In Belgium: the Central Quota and Licensing Office
- In the Netherlands: the Central Import and Export Service or one of the "(Hoofd) Produktschappen", depending on the product concerned
- In Luxembourg: the Licensing Office

(h) If the demand for licences cannot be fully satisfied, the allocation to applicants is made on the basis of the past import performance by the parties concerned.

New importers can also obtain licences without the amount allotted to traditional importers being appreciably reduced.

Care is taken to ensure that the amount allotted is not too small to be commercially justified.

Applications are examined on receipt.

(i) In the case of an export restraint arrangement concluded by the Community with a third country, a double-checking system is instituted.

(j) This does not apply to the Benelux countries.

(k) No. However, non-quota import licences issued with a view to re-exportation carry with them the obligation to re-export the manufactured product (active processing operations).

7. (a) There is no fixed time-limit. An importer can file his application whenever he wishes.

In case of inadvertency, a licence can, if possible, be issued on the day of application.

(b) Yes, provided the importer does not overdo this.

(c) No.

(d) See reply under 6(g).

8. Other than failure to meet the ordinary criteria, there are no circumstances under which a licence may be refused. Reasons for refusal are given to the applicant.

In the event of refusal of a licence, the importer has the right of appeal to an administrative tribunal.

Eligibility of importers to apply for licence

9. (a) and (b) Any individual or legal entity may apply for a licence.

Documentational and other requirements for application of licence

10. The application must state: name and address of the applicant, specifications of the product, statistical number, quantity, value, country of origin and country of provenance. BLEU also requires the name of the selling country and the currency of payment.

Where necessary, the export certificate of the third country, supporting documents or supplementary information may be required.

11. The customs declaration, invoice, import licence and in some cases a certificate of origin - where this is required on the licence - must be produced upon importation.

12. In the Netherlands there is no licensing fee or administrative charge.

In BLEU, the following stamp fees are charged unless exemption is provided for by an EEC or Benelux regulation:

10 francs if the value of the goods is under 10,000 francs;
20 francs in other cases.

13. No, except in BLEU for agricultural products subject to EEC levies. For such products a deposit is required as security for payment of the sums due.

Conditions of licensing

14. The period of validity is as a rule four months, or six months in the case of overseas countries.

Validity may be extended by means of renewal licences likewise valid for four or six months.

15. No.

16. No.

17. (a) See reply under 6(k).

(b) No.

Other procedural requirements

18. Apart from the import licensing system described above, there are import licensing systems in connexion with import control of radioactive products, soporific and narcotic substances, arms, etc.

All these regulations are covered by Articles XX and XXI of the General Agreement.

19. Yes, foreign exchange is automatically provided.

In the BLEU countries, for products for requiring a licence, the priority certificate attached to the licence gives the right to obtain foreign exchange.

