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REPLIES TO THE QUESTIONNAIRE ON LICENSING

Addendum

EUROPEAN COMMUNITIES AND THEIR MEMBER STATES

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A. COMMISSION OF THE EUROPEAN COMMUNITIES

For import licensing and similar procedures, the Community has established stock provisions covering products subject to Community import quotas and liberalized products the importation of which may be subject to Community supervision. It should be pointed out that at the present time there are no products under supervision or subject to import quotas. A description of these systems, which are applicable to both industrial and agricultural products, is given in Annex I.

Replies to the questionnaire concerning export restraint arrangements will be found in Annex II.

In the agricultural sector, and in respect of certain products to which the common organization of the market applies, provision is made for import certificates, which would come under the broad heading of "similar procedures". These certificates are described in Annex III.

It is clearly understood that this Annex, like all matters relating to agricultural products, will be treated according to the procedures adopted by the Council of GATT on 21 April 1971.

ANNEX I

Import Documents for Liberalized Products under
Community Supervision

Import Authorizations for Products subject to
Community Quotas

1. Outline of systems

The Community has two different systems of import licences and similar procedures:

- the first system, established by Council Regulation (EEC) No. 1023/70, of 25 May 1970, covers products subject to Community quotas, whether fixed by agreement or independently, designed to cope with disorganization of the market as specified in Article XIX of GATT. Regulation (EEC) No. 1023/70 merely establishes stock provisions which determine the way in which "import authorizations" are issued by the national administrations;
- the second system is set up under Regulation (EEC) No. 1025/70 of the Council, of 25 May 1970, establishing a common system to be applied to imports from third countries. This Regulation lays down the general principle of liberalized imports, i.e. not subject to quantitative restrictions, for virtually all products (923 out of the 1090 tariff items).

Where there is a danger that the development of the market for one of these liberalized products may be prejudicial to Community producers of similar or competitive products and where the interests of the Community necessitate this, imports of such products may be placed under Community supervision. In this event, they require the presentation of an "import document" issued or endorsed by the member States.

With regard to the content of this document, the Regulation lays down a number of standard provisions, such as an indication of the price and quantity of the goods to be imported. Within the framework of these standard provisions, member States are free to decide for themselves as to the format and layout of the documents used and the administrative rules governing their use, or to continue to use their customary type of document, and this is the general rule.

With regard to products not covered by the field of application of Regulation (EEC) No. 1025/70, importation is still governed exclusively by the national provisions.

2. Purpose and coverage of the licensing

(2) Identification of licensing systems maintained

(See 1 above.)

Products covered

With regard to import authorizations under Regulation (EEC) No. 1023/70, the Community has not so far instituted any Community import quota. As of the present time, none of the products included in the common list of products liberalized under Regulation (EEC) No. 1025/70 is under Community supervision. The above-mentioned import document is therefore not required for any import operation.

(3) Country of origin of products

Not applicable.

(4) Use of licensing to restrict imports

In the event of the Community's instituting import quotas, the issue of authorizations to import within the limits of the quotas would be for the purpose of restricting the quantity and value of imports.

However, the purpose of the import document specified in Regulation (EEC) No. 1025/70 is exclusively to facilitate supervision. It must be issued or endorsed within a period of not more than fifteen working days following submission of a declaration or a simple application by the importer. Thus it is impossible to base any import restriction on the use of this document.

(5) Legal basis of the licensing system

The above-mentioned Regulations.

Competence and conditions in the matter of import licensing

- Import document for the supervision of liberalized products:
Commission of the European Communities, where the development of the market for a liberalized product may be prejudicial to Community producers of similar or competitive products.
- Institution of quantitative import restrictions:
Council of the European Communities, where there is disorganization of the market within the meaning of Article XIX of GATT, or the obligation to carry out international commitments.

Abolition of the system

The Community institutions, i.e. the Council in the case of quantitative quotas, and Commission in the case of supervisory measures, are required to abolish any measure where the conditions governing its application are no longer met.

6. Procedures for licensing imports of products under quota

If for pressing economic reasons the Community should decide to institute a licensing system, which is not the case at present, the procedure is as follows:

(a) Publication

The global amount of Community quotas and their allocation among the various member States are determined in the form of Regulations, which must be published in the Official Journal. Not later than three weeks after a quota has been allocated, the member States have to give notice by means of official publication of the products for which and the procedures by which imports are authorized.

(b) Period of validity of quotas

There are no strict rules on this point. It may be taken, however, that as a general practice they will be on an annual basis.

(c) Allotment exclusively to domestic producers

The Regulations contained no rule to this effect.

Steps taken to ensure that licences allocated are actually used

For each quota, the member States must notify the Commission, within the first twenty days of each month, of the amount for which import authorizations have been issued and the quantity of imports effected during the preceding month. If it should be found on the basis of this information that more efficient use should be made of the quota, its allocation among the member States can be modified. Thus import possibilities to one member State that have not been used can be transferred to another.

Reporting to governments of exporting countries of names of importers to whom licences have been allocated

Left to the discretion of the member States.

(d) Time allowed for submission of applications for licences

One month, in the case of simultaneous examination of applications.

(e) Time allowed for processing applications

When applications are examined on a first-come, first-served basis, the time between the date of receipt of the application and the decision on it may not exceed three weeks. In the case of simultaneous examination, the decision must be made not more than two months after the submission of the application.

(f) Time-limits for importing

None specified.

(g) Organ competent to process applications for licences

Determined by member States.

(h) Procedure for allocation of licences

Within the limits of the share allotted to them, member States are in principle at liberty to issue import authorizations either on a first-come, first-served basis, or following a simultaneous examination.

(i) Issue of licences under export restraint arrangements

Does not apply.

(j) Double checking

Does not apply.

(k) Re-export stipulation

The Regulation does not make specific provision for this.

7. Documentary supervision of liberalized products

(a) Time-limit for submission of the document prior to importation

There is no limit specified in Regulation 1025/70 (the duration of validity of the document is, however, determined in each individual case on its merits).

(b) Immediate issue of the document

This is possible; it is in fact the rule in most of the member States.

(c) Timing of applications

No provision is made in Regulation 1025/70.

(d) Administrative organ competent to consider licence applications

This is left to the discretion of member States.

8. Refusal of a licence and right of appeal

The question is left to the discretion of the individual member States.

9. Eligibility of importers to apply for a licence

Pending the establishment of a Community import document proper, each member State is at liberty to refuse to issue or endorse licences on behalf of persons not established on its territory.

10. Information required in applications

Import documents covering liberalized products placed under supervision

(a) name and address of importer;

(b) description of the product, mentioning:

- the trade name

- the tariff number or the reference number in the nomenclature of the national statistical tables for external trade;

- the country of origin;

- the country from which the product comes

(c) the c.i.f. price free-at-frontier and the quantity of the produce in usual trade units;

(d) the proposed date or dates of import.

Member States may ask for further details.

Import authorizations for products subject to quota

The question is left to the discretion of member States.

11. Licensing fee charged

No provision in the Community Regulations.

13. Deposit or advance payment requirement

No provision in the Community Regulations.

14. Period of validity of licences

Left to the discretion of member States in the case of import authorization for products subject to quotas. Where a liberalized product is under supervision, the duration of validity of import documents is determined in each individual case.

15. Penalty for non-utilization of a licence

Left to the discretion of member States.

16. Transferrability of licences

Left to the discretion of member States.

17. Conditions attached to the issue of a licence

No uniform Community procedure as yet.

18. Administrative procedures apart from import licensing

Ditto.

19. Foreign exchange question

Left to the discretion of member States.

ANNEX II

Export Restraint

6. (i) "For purposes of Community restraint a system of dual control is instituted. An import authorization or endorsement is issued automatically by member States on production of the export permit issued by the exporter countries."

ANNEX III

AGRICULTURAL SECTOR

The Community does not apply a licensing system under the common agricultural policy. With regard to the "similar procedures" as defined fairly broadly in the footnote to the questionnaire, it should be pointed out that in some instances an import certificate is required.

Outline of systems

1. In the case of a number of agricultural products subject to a single price system in the Community, an import certificate is required.

Certificates are applicable to all imports of the products in question into the Community from all third countries.

The member States issue certificates to any interested party so requesting, wherever established in the Community.

Thus the import certificate, which is not in any way to be confused with the licence, has no restrictive effect.

The issue of certificates is subject to payment of a deposit.

Purposes and coverage of the licensing

2. The system covers certain agricultural products coming under the olive oil, cereals, rice, sugar, milk, beef and veal, and wine sectors (see also the reply to question 5).

3. Import certificates are required for all imports into the Community from all third countries.

4. Import certificates have no restrictive effect; their purpose is statistical.

5. Import certificates are established under the basic Regulations governing the common organization of the market laid down by the Council of Ministers of the Community. Any modification thereto can only be decided by the Council.

8. Applications for certificates which comply with the Community Regulations are accepted.

9. (a) Does not apply.

(b) The member States issue certificates to any interested party so requesting, wherever established in the Community.

Documentation and other requirements for licence application

10. See stock form attached.¹
11. None.
12. The Community Regulations make no provision for any licensing fee or administrative charge.
13. Certificates are issued subject to a deposit being lodged, guaranteeing the commitment to import during the period of validity of the certificate. The deposit may be lodged, at the choice of the applicant, in cash or in the form of a guarantee given by an institution fulfilling the criteria laid down by the member State to which the application for the certificate is made.

The deposit is released as soon as proof is given that the obligation to import has been fulfilled.

At the present time the amount of the deposit is fixed as follows:

Olive oil sector*

0.50 AU per 100 kgs. net

Cereals and rice sector*

0.50 AU per ton

Sugar sector*

0.02 AU per 100 kgs. net for products under tariff Nos. 12.04 and 17.03

0.20 AU per 100 kgs. net for products under tariff Nos. 17.01, 17.02 and 17.05

Milk and dairy produce*

0.50 AU per 100 kgs. net

Beef and veal*

10 AU per 100 kgs. net

¹This form, which is not reproduced in the document, is available for consultation in the secretariat.

*Where the total amount of the deposit for a certificate is less than 2 AU the deposit is waived.

Viticulture and wine-making*

CCT No.	Description of goods	Rate of duty (volume, net weight)
08.04 A II	Fresh grapes other than dessert	1.50 AU per 100 kgs.
22.04	Grape must in fermentation or with fermentation arrested otherwise than by the addition of alcohol	2.00 AU per hl.
Additional Note 4(a) to Chapter 22	Fortified wines	2.50 AU per hl.
Additional Note 4(b) to Chapter 22	Liqueur wines	7.50 AU per hl.
22.05 A	Sparkling wines	6.00 AU per hl.
22.05 B	Wine imported in bottles closed by mushroom-shaped stoppers held in place by fasteners or bindings, and wine otherwise imported of an over-pressure of not less than 1 atmosphere, but less than 3 atmospheres at 20°	6.00 AU per hl.
22.05 C	Other wines:	
	I. of an actual alcoholic strength not exceeding 13°	2.00 AU per hl.
	II. of an actual alcoholic strength exceeding 13° but not exceeding 15°	2.50 AU per hl.
	III. of an actual alcoholic strength exceeding 15° but not exceeding 18°	3.00 AU per hl.
	IV. of an actual alcoholic strength exceeding 18° but not exceeding 22°	3.50 AU per hl.
	V. of an actual alcoholic strength exceeding 22°	4.00 AU per hl.
22.07 A	Piquette	1.00 AU per hl.
22.10 A	Wine vinegar	2.00 AU per hl.
23.05 A	Wine lees	1.00 AU per hl.
23.05 B	Argol	0.10 AU per 100 kgs.
23.06 A I	Grape marc	1.00 AU per 100 kgs.

No deposit is required where the application for a certificate refers to a quantity not exceeding 1 hl. or 100 kgs.

* When the total amount of the deposit for a certificate is less than 2 AU the deposit is waived.

Conditions of licensing

14. The period of validity of a licence varies according to the product.

Olive oil sector

The certificate is valid from the date of effective issue to the end of the third month following.

Cereals and rice sector

Import certificates for products under headings 10.01, 10.02, 10.03, 10.04, 10.05, 10.06 and 10.07 are valid from the date of issue to the end of the third month following, and certificates for other products in this sector up till the end of the fourth month following.

Sugar sector

Import certificates for molasses (BTN 17.03) are valid from the date of issue to the end of the third month following, and certificates for other products in this sector are valid for sixty days beginning with the date of issue.

Milk and dairy produce sector

Import certificates are valid from the date of issue to the end of the second month following.

Beef sector

Import certificates are valid for ninety days from the date of issue.

Viticulture and wine-making sector

Import certificates are valid from the date of issue to the end of the third month following.

The validity of the certificate may be extended where the import operation cannot be carried out during the period of validity of the certificate for reasons of force majeure. The member State issuing the certificate may decide, at the request of the holder, to extend validity for such time as is deemed necessary in the circumstances. Such extension may occur after the validity of the document has expired.

15. Where the obligation to import has not been fulfilled, a proportion of the deposit is forfeited, equal to the difference between:

- (a) 95 per cent (93 per cent in the case of the cereals and rice sector) of the net quantity shown in the certificate, and
- (b) the net quantity actually imported.

However, if the net quantity imported amounts to less than 5 per cent (7 per cent in the case of the cereals and rice sector) of the net quantity shown in the certificate, the whole of the deposit is forfeited.

16. Obligations deriving from certificates are not transferable. Rights deriving from certificates are transferable by the holder of the certificate during the period of its validity. Transfer may be made only in favour of a single transferee for each certificate or extract therefrom, and applies to quantities not yet assigned on the certificate or extract.

The transfer takes effect from the time of the entry on the certificate or the excerpt, as the case may be, by the agency which issued the certificate, of the name and address of the transferee and the date of the entry, certified by affixing the stamp of the agency.

This entry is made at the request of the holder. The transferee may not transfer his right or re-transfer it to the holder.

17. (a) Does not apply.

(b) No.

Other procedural requirements

18. At the discretion of member States.

19. At the discretion of other States.

B. MEMBER STATES

(i) BENELUX ECONOMIC UNION

Outline of systems

1. Licences are the administrative instrument laid down by law for the application of the economic regulations governing external trade.

There is one licensing system only.

The basic legislation establishes the right to regulate the importation of goods. To the extent that this right is not used, importation is free.

Licence applications must be made on the prescribed forms to the administrative service responsible for issuing licences.

Licences are issued with the stipulation that the holder is required to produce them at the time of customs declaration.

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

N.B. The present statement does not affect any 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	North Korea
Bulgaria	North Viet-Nam
Czechoslovakia	People's Republic of China
East Germany	People's Republic of Mongolia
Hong Kong	Poland
Hungary	Romania
Japan	USSR

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

(b) imports of a restricted number of products from whatever source.

4. Licensing is intended either:

- to restrict the quantity of imports, in which case licences can be issued on a limitative basis; or
- for the application of certain administrative provisions, e.g. to obtain very rapidly information which could not be procured as quickly using the other methods at the disposal of the Administration in the Benelux countries, or in BLEU the authorities responsible for collecting the EEC agricultural levies.

In such instances, licences are issued automatically and 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 relative to imports, exports and transit of goods.
- The Crown Order of 24 October 1962 defining the licensing system.
- Ministerial Orders enacted in implementation of the above instruments which determine what imports shall be subject to licensing.

In Luxembourg:

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

In the Netherlands:

(a) Basic legislation:

In- en uitvoerwet (Import and Export Act) (Staatsblad 1962, 295).

(b) Executive legislation:

- In- en uitvoerbesluit industriële goederen (Decree governing imports and exports of industrial goods) 1963 (Staatsblad 1963, 126).

- In- en uitvoerbesluit landbouwgoederen (Decree governing imports and exports of agricultural produce) 1963 (Staatsblad 1963, 125).
- Invoerbesluit landen (Decree governing country imports) 1963 (Staatsblad 1963, 127).
- In- en uitvoerbesluit Zuid-Rhodesië (Decree governing imports and exports - Southern Rhodesia) (Staatsblad 1966, 289).
- In- en uitvoerbesluit koffie (Decree governing coffee imports and exports) 1969 (Staatsblad 1969, 321).

Under these legislative instruments, licensing is statutorily required. The licensing of goods is thus not left to administrative discretion. Abolition of licensing for a given sector presupposes executive legislation.

Procedures

6. (a) Information is available to all concerned. Quotas laid down in trade agreements are published.
- (b) The size of quotas is as a rule determined on a yearly basis.
- (c) No licences are allotted only to producers of like goods.

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

Unused allocations are not added to quotas for a succeeding period. Licences are re-allotted during the current financial year, and can be used in the next period.

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, because of the strictly confidential nature of administrative procedures (trade secrets).

- (d) Applications for licences may be submitted at any time within the quota period.
- (e) As a general rule, applications are processed on the date of receipt and licences are issued within a time-limit not exceeding five working days.
- (f) Licences issued 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", according to the product concerned
- In Luxembourg: the Licensing Office

(h) If the demand for licences cannot be fully satisfied, allocation to applicants is made on the basis of the past 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 amounts granted are not too small to be commercially justified.

Applications are processed as and when they are received.

(i) In the case of bilateral quotas, the arrangement is for licences to be issued by the importing country.

Import licences can also be required for the control of restraint arrangements. In this way it is possible to avoid inadvertently exceeding the limits where imports coming from a third (re-exporting) country, but originating in a country which limits its exports are not charged against the agreed quantity because the latter was unaware of the final destination of the goods. Import licences are issued automatically on presentation of an export permit.

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

(k) No.*

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

In the event of inadvertent error, a licence can be issued on the day of application.

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

(c) No.

(d) See the reply under 6(g).

* Import licences issued not under quota for re-export involve the undertaking to re-export the manufactured product (active processing operations).

8. There are no circumstances other than failure to meet the ordinary criteria in which a licence may be refused. Reasons for any refusal are given to the applicant.

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

Eligibility of importers to apply for a licence

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

Documentational and other requirements for licence application

10. The application must state the name and address of the applicant, specifications of the products, statistical number, quantity, value, country of origin and country of supply. BLEU also requires the name of the vendor country and the currency in which payment is made.

Stock forms are attached herewith (Annexes 1, 2 and 3).¹

Where necessary, supporting documents or supplementary information may be required.

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

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

In BLEU, the following stamp fees are charged:

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

13. No, except in BLEU for agricultural products subject to EEC levies. For such products a deposit is payable 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.

¹There Annexes, which are not reproduced in this document, are available for consultation in the secretariat.

16. No.

17. (a) and (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, in the case of products for which a licence is required, the priority certificate attached to the licence gives the right to obtain foreign exchange.

* Import licences issued not under quota for re-export involve the undertaking to re-export the manufactured product (active processing operations).

(ii) FRANCE

Each reply refers to the corresponding heading of the questionnaire.

Outline of systems

1. Only products under quota are subject to licensing. In exceptional instances arising out of special agreements, the importation of products not involving quantitative restrictions is subject to licensing. In such cases a licence is issued automatically. The general system for imports of products not involving quantitative restrictions is that of a simple import declaration. This may involve the formality of a technical visa or endorsement where surveillance measures are called for.

2. There is only one licensing system, which may be applied in various ways as defined in the notices to importers relating to particular countries or products.

Countries and products subject to licensing are listed in the notices to importers published periodically in the Official Journal in the light of trade developments. The main notice in which a number of previous instruments are codified is that which appeared in the Official Journal of 6 September 1970.

3. The detailed lists of products still under quota, by source, are published regularly in the Official Journal along with lists of liberalized products subject to technical visa.

4. The purpose of licensing is to restrict the quantity or value of imports in cases where ceilings have been fixed in advance to ensure that the limits are not exceeded.

5. The main basic instruments are the Decrees of 30 November 1944 and 13 July 1949 and the Order of 30 January 1967. Where the law leaves the Administration free to decide which products require a licence, the agreement of the legislative must be obtained to abolish the system itself.

Products subject to restriction

6. (a) Information is given in notices to importers published in the Official Journal stating the conditions governing submission and processing of applications. The amount of quotas is published in administrative notifications. In the case of quotas under bilateral agreements, the information is published in the specialist organs.

(b) In the case of bilateral agreements the size of quotas is laid down in the agreement itself. In other cases, it is determined in the light of the economic situation.

(c) As a general rule, the fact of being a domestic producer does not confer any special right to a licence. The issue of a licence confers the right to import but does not constitute an obligation to import; however, among the licensing criteria the fact that licences taken out previously have or have not been used may be taken into account. Unused allocations are not added to quotas for a succeeding period except in the event of an agreement specially negotiated to that effect. The customs authority keeps a list of licensees at the disposal of anyone concerned.

(d) Importers are advised of the allocation of quotas by means of notices in the Official Journal. In the case of examination on a first come, first served basis, importers may submit their applications immediately on publication of the notice, or from such later date as is specified in the notice. In the case of simultaneous examination, importers must submit applications prior to the deadline indicated in the notice. The grace period between the publication of the notice and the deadline date is as a rule at least a fortnight.

(e) Licences are issued either as and when applications are received or after simultaneous examination. There is no general rule in this respect; the choice of the procedure is based on factual considerations such as the probable number of applications in relation to the size of the quota.

(f) There is no minimum time-limit between the date of granting a licence and the opening date of the period of importation.

(g) The importer's application must be made to the customs authority, which passes it on to the appropriate Ministry according to the nature of the product.

(h) Applications for licences are examined by the functional Ministries in accordance with two different procedures: on a first come, first served basis, and simultaneously.

Quotas are allocated by the functional Ministries among the importer applicants after consultation with professional technical committees, which propose rules for the allocation. There is no statutory provision limiting their freedom of action in this respect. In very many instances, the criteria are based on past performance or the destination of goods; thus some quotas are set aside for direct users or for importers operating on their own account.

As a general rule, a portion of the quota is set aside for new importers. Once they have imported, this initial portion may be extended in the future.

The licensing department (the customs authority) must follow the advice of the competent Ministry in the matter of allocation.

(i) The import licence requirement in this case depends on the statutory import system applicable to the product.

(j) Control is exercised by virtue of any private conventions concluded with the exporting country, or simply by means of customs statistics, or an import declaration with technical visa, or an import licence (see (i) above).

(k) Licences are not issued subject to this condition except in the case of suspended customs duty procedures.

Products not subject to restrictions

7. (a) No time-limit is specified except the period actually necessary for the formalities of submission and issue.

(b) Licences and technical visas may be granted without notice on request.

(c) There are no limitations.

(d) See reply under 6(g), for licences; application must be made direct to the functional Ministry concerned in the case of technical visas.

Common questions

8. An application can be refused only if the applicant has not fulfilled his legal obligations. The reasons for refusal are invariably given to the applicant. Apart from discretionary appeal to the competent Minister, interested parties can appeal to the courts.

9. Failing legal dispensation, the interested party must be registered (or in the process of being registered) in the Trade Register and in INSEE. There is no published list of authorized importers (see GATT L/2981/Add.16 of 8 January 1969).

10. All information is given on the prescribed form attached¹, which the importer can obtain from the customs authority.

11. As under 10, the replies are given in sections 10 to 15 of the notice to importers and exporters dated 31 January 1967.

12. There is no licensing fee or administrative charge.

13. No deposit or advance payment is required.

14. The period of validity is limited to six months. But a different period may be established in the quota notice published in the Official Journal.

¹This form, which is not reproduced in the document, is available for consultation in the Secretariat.

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15. There is no statutory penalty.

16. Licences are not transferable.

17. (a) In certain instances, the importation of products is subject to the provisions of the Decree of 26 October 1966 allocating all licences or a specific portion to groups or undertakings pledged to apply the marketing and price conditions laid down in the policy defined by the Government.

(b) No.

18. Yes, especially in regard to specific regulations (e.g. standards, public health, national defence, repression of fraudulent practices).

19. The answer to the first three questions is yes.

(iii) FEDERAL REPUBLIC OF GERMANY

Outline of systems

1. In the Federal Republic of Germany the following two systems are applied:

(a) The system applied to products subject to the EEC common organization of the market, based on common legal regulations, especially that governing import certificates (Regulation EEC No. 1373/70).

(b) The system applied to all other products in the agricultural and industrial sector, based on the External Trade Act (Aussenwirtschaftsgesetz).

The replies to the questionnaire refer only to the system under (b).

Section 1 of the External Trade Act (AWG) lays down the fundamental rule of freedom of external trade. Thus, restrictions are to be limited to what is strictly necessary. They are to be established in such a way that economic activities are hampered as little as possible (AWG, section 2). Licences must be granted with a view to exploiting import possibilities in the economic interest (AWG, section 3).

The licensing authorities follow the rules laid down by the Minister of Economic Affairs and the Minister of Agriculture, by common consent and with the agreement of the Central Bank (Bundesbank).

On the basis of these rules, the competent authorities publish the points to be observed in making an application for a licence (invitation to submit tenders) in the Bundesanzeiger (AWG, section 12).

Licences can if necessary be made subject to time-limits, special conditions and revocation clauses. They are not transferable, unless there are express provisions to this effect.

Issue of licences, refusal of an application for a licence, and revocation of a licence granted, must be done in writing. If the decision is challenged, the grounds must be stated and the possible appeal procedures must be indicated (AWG, section 30).

In accordance with the External Trade Regulations (Aussenwirtschaftsverordnung) (AWV) which form part of the External Trade Act, an applicant can obtain a licence limited in time for an unspecified number of legal or similar operations (global licence), if this should seem useful because of the likelihood of a series of such operations. The licence must be returned to the competent authority immediately if it loses its validity before it has been used or if the beneficiary decides not to make use of it.

In the case of imports exempt from the licence requirement, the importer must submit an import declaration to the Land Central Bank following the conclusion of the import contract and before the goods are put into free circulation. The import declaration is designed to enable the German authorities to forecast the future development of imports in the various branches. The Land Central Bank certifies that the import declaration has been produced by affixing its stamp on one of the copies. This copy acts as a receipt and must be presented when the goods are put into free circulation.

Purposes and coverage of the licensing

2. The products differ according to whether they are imported from market economy countries or State-trading countries. Products requiring a licence are indicated in the import list annexed to the External Trade Act.
3. Imports of a number of products in the foodstuffs, coal and petroleum sectors require a licence in respect of all countries. A series of products in the textile and ceramics sector need a licence when they originate in countries belonging to list B. To avoid an unnecessary proliferation of licences, this list has been used so far. The products mentioned in the textile and ceramics sectors and a large number of other products as well are subject to licensing if they are purchased from or originate in State-trading countries.
4. Licensing is intended to restrict the quantity of imports. It is also applied in trade with the State-trading countries, in the absence of quantitative restrictions, in order to obtain the necessary experience to move over to a non-licensing system. The products in question are published in the Bundesanzeiger under the heading "automatic licences" (Ausschreibungen mit laufender Antragstellung). For imports of these products coming from certain State-trading countries, licences are granted without quantitative restriction. Since the summer of 1969, approximately 4,500 statistical items have been exempted from the licensing requirement.
5. (a) External Trade Act of 28 April 1961 (Bundesgesetzblatt I, p. 481).
- (b) Import list annexed to the External Trade Act, in the version shown in Regulation 36 amending the import list of 29 May 1969 (Supplement No. 12/69 to Bundesanzeiger No. 101 of 4 June 1969), as amended recently by Regulation No. 40 amending the import list dated 20 August 1970 (Bundesanzeiger No. 153 of 21 August 1970).
- (c) The External Trade Regulations, in the version of 20 December 1966 (Bundesgesetzblatt 1967 I, p. 2) as amended recently by the twentieth Decree amending the External Trade Regulations, dated 9 May 1971 (Bundesgesetzblatt I, p. 441).

The licensing requirement must be prescribed by regulations decreed by the Federal Government and forwarded to Parliament following publication. Abolition of licensing or amendment of the External Trade Regulations system is likewise only possible on the basis of such regulations.

Procedures

6. (a) Import possibilities are published in the Bundesanzeiger in the form of "invitations to submit tenders". These specify the conditions required and any other information needed by the importer, including the total quantity or total value of the quota, the amount that can be ordered from each country, and where necessary the maximum amount an importer's application can cover.
- (b) Tenders are generally valid for a full year, occasionally for half a year. In the case of tenders covering a full year, licences are granted with a validity of half a year, if this is sufficient for the necessary arrangements to be made by the importer or if full use of the quota has to be guaranteed. The period of validity may be extended.
- (c) Licences may also be allotted to domestic producers. To ensure that allocations are actually used, licences granted are renewed if they have not been used within a specified period. Portions of quotas for which no import application has been made are not as a rule carried over to the following year. All information furnished by applicants must be regarded as confidential (industrial secrets); hence the names of importers cannot be revealed. However, in cases where this is justified, ways and means are sought of putting exporters and importers into contact.
- (d) The time-limit for submitting applications is fixed in different ways according to circumstances. In the case of large quotas, applications may be submitted immediately and continually until the quota is exhausted. If in the case of small quotas an apportionment has to be made, as a rule a time-limit of two to three weeks is allowed.
- (e) In the event of possible large-scale imports, licences are often granted on the day on which the application is submitted. In other instances, time-limits up to three weeks are necessary.
- (f) Once a licence has been granted, importation may begin immediately.

(g) The licensing authorities are the Federal Industrial Economy Office and the Federal Agriculture and Forestry Office, both of them at Frankfurt. The authorities grant licences in accordance with the regulations of the competent Federal Ministry, and they make their decision without reference to other services or organs.

(h) In the case of small-scale quotas, sufficient time is allowed for making application. Applications are examined simultaneously. In apportioning amounts, either the import operations effected over a reference period are taken as the basis, or the quantities requested by the importers are reduced in an equal proportion, or each applicant receives the same quantity irrespective of the amount he wishes to import. In some instances maximum time-limits are fixed for applications from a particular importer. They must be economically justified. Newcomers are also considered.

(i) If a supplier country applies export restrictions, as a rule there is no need for an import licence. In some cases a dual control (export licence and import licence) is agreed bilaterally. In such cases an import licence is granted automatically on production of the export licence from the supplier country.

(j) This will be agreed bilaterally. The exporting country issues licences in accordance with the agreement, and imports are registered in the importing country by means of statistical notification.

(k) Import licences are not subject to the re-exportation requirement.

7. (a) There is no fixed time-limit for submitting applications.

(b) Licences are as a rule granted immediately.

(c) In the case of automatic licences (ACA), there is no limitation as to a specific period.

(d) Licences are issued exclusively on the responsibility of the competent authorities.

8. Licences are refused only where the conditions laid down by law are not fulfilled. The reasons for the refusal are communicated to the person concerned. He has the right to appeal for reconsideration and can complain to the administrative tribunal.

Eligibility of importers to apply for a licence

9. In principle, anyone is eligible to apply for a licence. However, licensing can if necessary be made subject to conditions of substance or withheld on personal grounds. Applicants who are hampered by import restrictions in carrying on their business can be given preferential treatment.

The conditions are specified in the invitation to submit tenders. There is no registration procedure.

Documentational and other requirements for licence application

10. Applications must be submitted on the printed import licence form (Annex E3 to the External Trade Regulations). Where the import possibilities are restricted a contract subject to a firm offer is required to ensure that the quota will be used.

11. On actual importation (free circulation of goods), the import licence or the sealed import declaration must be produced.

12. No licensing fee or administrative charge is made for import licences.

13. There is no deposit or advance payment requirement.

Conditions of licensing

14. The period of validity of a licence is as a rule six months. It can be reduced exceptionally, and where necessary it frequently covers a longer period. Upon request it can be extended by the competent authorities.

15. There are no penalties for the non-utilization of a licence.

16. Licences are not transferable.

17. There are no conditions attached to the issue of a licence other than those mentioned above.

Other procedural requirements

18. There are no other administrative procedures required prior to importation.

19. There are no restrictions on the provision of foreign exchange.

(iv) ITALY

The import licensing procedures still in force in Italy do not involve different procedures or methods according to different categories of products or different countries of supply except in the case of imports of certain products coming under the regulations adopted within the framework of the EEC Common Agricultural Policy.

Hence the only distinction to be made is between procedures of general application and others specifically concerned with certain agricultural products subject to the organization of the common market.

For the latter, see the replies furnished in respect of the Community by the Commission of the European Economic Communities.

Thus the replies given below refer only to the procedures applied generally.

Reply to question 1 (outline of systems)

1. To explain more clearly the scope of the licensing system in force, it may be well to recall that under Legislative Decree 6-6-1956 No. 476 (later Act No. 785 of 25/7/1956), all import operations are subject to ministerial authorization.

In accordance with Article 13 of this Legislative Decree No. 476, the Ministry of External Trade is empowered to exercise direct control over import operations by recourse to authorizations which may be "general" or "specific".

"General" authorizations take the form of a ministerial decree or a circular. They cover products which may be imported without the need for a specific authorization (ministerial licence) in each case.

In practice, the products to which general authorizations apply are those which are imported without any quantitative restrictions, provided of course that the conditions laid down in the general authorizations are met.

This is the so-called "customs import system", thus named because the importer is at liberty to import the products in question in any quantities and quite freely through the customs offices at the frontier, the only condition being that the provisions in regard to payments abroad and any other customs regulations are fulfilled.

With regard to imports of products not subject to general authorizations, the importer must apply for and obtain in advance a "specific" ministerial authorization. This takes the form of what is currently called a "licence".

Between these two licensing systems there may be intermediate systems. One such system at the present time is the so-called "controlled customs régime", under which an importer can import a product to which this régime applies without a ministerial licence, but only within the limits of a quota directly administered by the customs and used in the chronological order in which import declarations are submitted by the importers concerned.

Another licensing system midway between the general authorization and the specific authorization is the automatic licence. This is a specific ministerial authorization, but in its practical effects it is identical with the general authorization. Automatic licences are granted without any quantitative limit and hence they constitute a de facto liberalization. Their purpose is merely to enable a close watch to be kept on the trend of imports of certain products.

Thus licences as such are the instrument used for authorizing, by means of specific measures, the importation of products to which quantitative restrictions apply.

In Italy such licences are issued by the Ministry of External Trade, either under bilateral quotas (negotiated with countries linked to Italy by bilateral trade agreements) or under autonomous quotas, or on an individual basis without any prior establishment of global amounts or tonnages for the product to which the restriction applies.

With regard to the "similar procedures" referred to in the questionnaire, it may be mentioned here that in the case of a number of products liberalized autonomously and experimentally in respect of certain countries with centrally-planned economies (see circular A/317975 of 18 November 1970, cited in reply to question 2), the importer must submit to the National External Trade Institute (ICE) a "visa" whose purpose is to enable a close watch to be kept on the trend of imports. The date and the number of this "visa" are communicated to the bank designated by the importer, to be entered in the financial document to be handed to the customs.

A "visa" issued by the National External Trade Institute (ICE) is also required in the case of export restraint arrangements, where export permits are issued by exporting countries (see the reply by the EEC Commission to question 6(i)).

Replies to questions 2 to 5 (purpose and coverage of the licensing)

2. The lists of products coming under the general authorization (liberalization) system and the specific authorization ("licences") system differ in coverage and scope according to the geographical zones to which the systems apply.

Three geographical zones must be distinguished:

(a) The first zone comprises all the countries of the world with the exception of a group of countries with centrally-planned economies (Albania, Bulgaria, Czechoslovakia, German Democratic Republic, Hungary, North Korea, North Viet-Nam, People's Republic of China, People's Republic of Mongolia, Poland, Romania, and USSR), and Japan. Hence this zone includes inter alia all the countries Members of GATT with the exception of Czechoslovakia, Japan and Poland.

(b) The second zone comprises the countries with centrally-planned economies listed under (a).

(c) The third zone consists of Japan.

With regard to the countries of the first zone, imports into Italy are governed by the provisions of the Ministerial Decree of 16 June 1970 (published in the Official Journal of 24 July 1970, No. 186).

In virtue of these provisions, virtually all products may be imported freely (general authorization) provided they originate in one of the countries in question (except in a few instances where the products must also come from the same country) and provided the provisions relating to foreign exchange and customs are met.

Only a very small number of products are subject to the specific ministerial authorization requirement. These are shown in "Table A/Imports" annexed to the decree in question.

With regard to countries with centrally-planned economies (zone 2), imports into Italy are governed by the provisions of the Ministerial Decree of 10 July 1963 (published in the Official Journal of 16 January 1964, No. 12).

"Table B/Imports", annexed to the Ministerial Decree in question comprises a list of products subject to specific ministerial authorization.

Products not included in this list may be imported freely (general authorization) provided they originate in and come from one of the countries in question and provided the currency and customs provisions are met.

The list of products subject to specific ministerial authorization and included in "Table B/Imports" was reduced considerably in 1967, and more recently by the publication of Ministry of External Trade circular No. A/317975 of 18 November 1970, in respect of imports originating in and coming from the following countries: Albania, Bulgaria, Czechoslovakia, Hungary, Poland, Romania and the USSR, and circular No. I/153417/AG.152 of 28 October 1970 of the same Ministry, in respect of imports originating in and coming from all the countries to which "Table B/Imports" applies.

To give a more complete picture of the scope of the licensing system in force in respect of these countries, account must also be taken of the provisions

of the circulars published by the Ministry of External Trade for the application of the commitments undertaken in the trade agreements concluded with the same countries.

A special situation exists in respect of Japan (third zone): products originating in Japan which are subject to licence, and products which may be imported freely, are governed by the provisions of Ministry of External Trade circular No. S/606360 of 28/5/1963 and the circulars published successively by the same Ministry.

The tables annexed to the report of the Joint Working Group on Import Restrictions (see document L/3391/Rev.1 of 15/3/1971) show the products subject to licence (specific authorization) in respect of the countries Members of GATT to which the provisions of "Table A/Imports" apply.

These same tables also show the products which may be imported under automatic licences (de facto liberalization) in respect of the countries Members of GATT to which the provisions of "Table A/Imports" apply.

3. See the reply to question 2.

4. In the case of bilateral quotas negotiated and included in the trade agreements in force with certain third countries (the countries to which the provisions of "Table B/Imports" apply, plus Japan), the specific ministerial authorization system is merely the instrument for the use of these quotas by the importers concerned. In itself, the licence adds no limitation to those arising out of the quantitative restriction itself.

In other instances (e.g. autonomous quotas, issue of licences on their merits without prior establishment of any quota), the authorization system is designed to restrict imports where this is deemed necessary in the light of the particularities of trade relations with certain countries and economic and social factors affecting the competitive position of certain Italian production items.

No alternative methods have been considered in such circumstances for achieving the purpose intended by the licensing system in question.

5. The legal basis of the licensing systems applied at present by Italy is, as mentioned above (see the reply to question 1), the Legislative Decree of June 1956, No. 476 (which later became Act No. 785 of 25 July 1956), Article 2 of which provides that "residents may not export or import goods except under the cover of ministerial authorizations". Article 13 of the same Decree further stipulates that the necessary provisions for granting such authorization shall be made by the Ministry of External Trade. Thus the law leaves it to the discretion of the Administration to decide whether and to what extent it sees fit to apply general or specific authorizations to imports (and exports) within the framework of Act No. 785 of 25 July 1956; but the consent of Parliament would have to be obtained before the system itself could be abolished.

Replies to questions 6 to 3 (Procedures)

6(a) and 6(b). Import quotas may be dealt with according to the system of prior allocation or under the so-called "controlled customs system" (for this see the reply to question 1).

In the former instance, ministerial authorizations are granted on the basis of applications by importers. If the quotas are to be apportioned on a half-yearly or quarterly basis, importers must submit their applications in respect of each allocation within the time-limits laid down. They may make reference to the documentation submitted for the preceding allocation.

In the second case, annual quotas (where appropriate sub-divided into half-yearly or quarterly portions) are apportioned and assigned to a number of customs offices for use in accordance with the method already indicated in regard to this system, i.e. importers may import the goods by producing them at a customs office until the quota amounts assigned to that office are exhausted.

Specific ministerial authorizations (licences) have invariably a validity of six months. Consequently, where the allocation of the quota is on an annual basis, the importer must apply for renewal of the licence if he has not yet been able to import his apportioned share.

Information on the allocation of quotas (including size of quotas and countries concerned) and the procedure for filing applications for licences are furnished to importers, other Administrations, public bodies and professional associations by means of circulars issued by the Ministry of External Trade and press releases, as well as through the publication of these circulars in the weekly bulletin "External Trade Information" issued by the National External Trade Institute (ICE).

(c) In the case of quotas allocated by specific ministerial authorizations, normally speaking all importers able to prove that they are interested in importing the product concerned are at liberty to participate in the allocation. This therefore applies to industrialists, farmers, craftsmen and traders.

No steps have been taken to insure that licences allocated are actually used for imports. The criteria adopted for the allocation of quotas (see the reply to question 6(h)) do, however, provide a means of avoiding or reducing to a minimum the possibility of the quotas themselves remaining unused.

Unused allocations are rare in these circumstances (see the reply to question 6(h)).

Unused quota allocations under the "controlled customs system" may be added to quotas for a succeeding period where this is deemed appropriate.

The names of importers to whom licences have been allocated are published by inclusion in the tables posted in the premises of the Ministry of External Trade. There have been no requests by governments or export promotion bodies in exporting countries for direct information on this point.

(d) Quotas are normally open for allocation from the date of the circular announcing their opening.

Applications for licences must be submitted within a period of not more than thirty days from that date.

(e) About a month, but at times the period is even shorter when there are not many applications for licences.

(f) Licences are valid for a period of six months. The period of importation may be three months, six months or one year.

Normally, applications are processed during the first two months of the period of importation, but this causes no inconvenience to the importer, since the validity of licences is six months and hence he can import his allotted portion even after the period of importation expires.

(g) Licence applications are considered by a single administrative organ, the Ministry of External Trade, to which applications must be made.

It should be pointed out that the Ministry of External Trade authorizes importation, but it is the Ministry of Finance which, on the basis of this authorization, actually issues the licence, instructing the customs to carry out the import operation in accordance with the terms indicated in the authorization.

The Ministry of Finance transmits the licence direct to the applicant.

(h) In the ordinary way, applications by importers for authorization to import within the framework of a quota far exceed in the aggregate the quota itself. Hence, it rarely happens that the demand for licences can be fully satisfied.

The allocation to applicants - which takes place immediately after the expiry of the time-limit laid down for the submission of applications - is made on the basis of a number of objective criteria by which each is granted an equal share plus an additional amount calculated on the basis of the economic position of the importer (registered capital and certified revenue), the specific link between his business and the product concerned, and his business turnover of the previous three-year period.

For this reason the importer is asked to attach to his application the banking and customs documentation relating to actual imports of the product to which the quota applies, effected by him over the previous three-year period from all countries.

Applications are examined simultaneously in the case of quotas involving prior apportionment. In other cases they are examined as and when received.

(i) In the case of bilateral quotas, where export permits are issued by the exporting countries, an Italian importer must also apply for a specific ministerial authorization if the products concerned are subject to a licence. If so, the system current in Italy applies.

The only such circumstances where a licence is not required is where bilateral quotas are opened on the Italian side through the "controlled customs system", since this does not involve a licence.

With regard to the case of export restraint arrangements, see the reply furnished by the Commission of the European Economic Community.

(j) This does not apply to Italy.

(k) Only in the case of ministerial authorizations to import under the temporary import system.

7(l). Where specific ministerial authorizations are granted automatically (without any quantitative limitation), licence applications can be submitted at any time.

Applications are processed within a reasonable period (four to five days at most), but in special cases such as perishables or goods in transport or lying in the customs, authorizations can be obtained at shorter notice.

(b) Ministerial authorizations can be granted immediately on request, in cases where the urgency cited is considered to be justified.

(c) Automatic ministerial authorizations are granted as and when applications are submitted to the Ministry of External Trade, without any limitation as to the period of the year during which the application for a licence and/or importation may be made.

(d) Applications must be made exclusively to the Ministry of External Trade. Authorizations granted automatically by this Ministry are countersigned by the Ministry of Finance, which transmits them direct to the applicant.

8. The Ministry of External Trade can refuse a licence application in virtue of the principles and basic criteria governing the regulations in force; but it must communicate the reasons for the refusal to the interested party.

With regard to the question of refusal of a licence, it should be pointed out that the specific ministerial authorization is a definitive administrative act, not subject to challenge or recourse to higher authority, or to verification on grounds of merit by the organs of administrative justice. In the event of prejudice to his lawful interests, an applicant has therefore only one possible safeguard: recourse to the Chief of State and the Council of State. The latter can pronounce only on technical flaws (incompetence, action ultra vires, or violation of law). Thus, any recourse to the ordinary courts is excluded except in the case of application for damages as a result of an unlawful act rendered null and void by the organs of administrative justice.

Reply to question 9 (Eligibility of importers to apply for licence)

9. As a general rule, no conditions are laid down for granting ministerial authorizations to individuals or legal entities under the ordinary or automatic licensing systems, provided they are resident in Italy.

Regular importers are invited to enrol in a special schedule with the Ministry of External Trade ("Schedule of operators in foreign trade"), in order to enable the competent services of the Ministry to obtain the necessary information on their activities. Enrolment in this schedule is unrestricted and open to all interested parties.

Replies to questions 10-13 (Documentational and other requirements for application of licence)

10. The information required in applications is as follows:

- (a) Nature and quantity of goods;
- (b) number of the heading in the common customs tariff;
- (c) value;
- (d) origin;
- (e) source of supply;
- (f) customs post where the import operations will be carried out.

As a rule no documents need be supplied with the application. In order to demonstrate the concrete nature of his import operations, the importer may attach the invoices issued by the foreign supplier and other documents (e.g. contracts, photographs, designs, price lists, etc.) to provide the Administration with background information.

Submission of special documentation is required only in exceptional cases.

11. Upon actual importation, the importer is invariably required to produce to the customs, in addition to the licence (where this is required), the document referring to the financial settlement of the import operation. This document (in Italian "benestare bancario") must be issued by one of the authorized banks and is required for payment purposes.

12. There is no licensing fee or administrative charge for specific ministerial authorizations.

13. The issue of a ministerial authorization does not involve the payment of a deposit or an advance payment.

Replies to questions 14 to 17 (Conditions of licensing)

14. The period of validity of a ministerial authorization is six months. It can be extended at the request of the interested party.

15. There is no penalty for the non-utilization of the whole or a portion of a ministerial authorization.

16. Ministerial authorizations are transferable only in cases where the holder of the authorization has sold the goods to another national importer prior to customs clearance.

17. As already indicated in the reply to question 9, no conditions are attached to the issue of specific ministerial authorizations (ordinary or automatic).

Replies to questions 18 and 19 (Other procedural requirements)

18. Importation of certain goods, even where it is carried out under cover of a general authorization ("customs system") is subject not only to licensing and similar procedures, but to other prior administrative formalities such as visas or endorsements, certification and health control, plant health control, suppression of fraudulent practice formalities, security measures, etc., which are the responsibility of other administrative departments or public bodies.

19. The authorized bank chosen by the importer is responsible for checking, prior to the issue of the "benestare bancario" (i.e. the document relating to the payment for the goods), the importer's capacity and fitness for carrying out the operation requested. The importer must place at its disposal all the documents it needs to satisfy itself as to the complete regularity of the operation in hand. After a thorough check, the authorized bank places the necessary foreign exchange at the disposal of the applicant.