

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

COM.IND/W/55/Add.20
COM.AG/W/72/Add.20
30 June 1971

Limited Distribution

Committee on Trade in Industrial Products
Group 4 - Licensing

Original: French

REPLIES TO THE QUESTIONNAIRE ON LICENSING

Addendum

TUNISIA

OUTLINE OF SYSTEMS

1.2.3. The import documents used vary with the country and according to the system applicable to the product concerned.

Franc area

Imports from franc area countries are subject to:

(a) a simple "transfer authorization" (form X2) where the product is neither prohibited or subject to quantitative restrictions; this authorization is valid for four months only.

(b) an "import and transfer authorization" for other products.

The first document, which is of a purely financial character, is obtainable from a bank approved to act as an intermediary following a favourable recommendation by the competent services of the Central Bank of Tunisia (BCT) and the Ministry of National Economy (Trade Directorate).

The second document is a combination of an import authorization and a transfer authorization, and is both a foreign trade document and a financial document. For that reason, the application must be submitted to the Trade Directorate (Ministry of National Economy) which issues the document.

It should be underlined that, in principle, these documents are valid exclusively for products originating in and imported from the franc area.

Countries outside the franc area

An import licence, which is a foreign trade and exchange document, is required for all imports. The licence is "automatic" in respect of liberalized products (List I).¹ It is "normal" for all other products.

¹Lists I and II are available for consultation in the secretariat.

In addition it should be noted that a "normal licence" is required for all imports effected in the context of loans.

In addition there is:

- The prior import authorization

On the basis of this authorization, financial settlement in whole or in part is made before the actual importation of certain capital goods, raw materials and semi-finished products where the period required for manufacture or delivery is longer than the period of validity of the foreign trade documents.

In general, and depending on the origin and provenance of the goods, the forms to be completed are those customarily required, to which the importer must add a clear notation "prior authorization".

The prior authorization which can be used for partial imports under documents normally required is valid for a longer period than the latter documents.

- Import card

A new procedure has been introduced in order to facilitate the activities of certain sectors of the economy by allowing them, in case of urgent need, to import spares or products needed for their activities; under this procedure, such transactions can be effected under an "import card"; the conditions for use of this card are determined by notices to importers published in the Official Gazette of the Tunisian Republic.

The products to which this régime is applicable are listed in the notices to importers published in the Official Gazette of 26 and 29 August 1969.

Farmers who can show proof of ownership of agricultural equipment are also eligible to benefit under the provisions of these notices.

Although the maximum amount of these imports is D 500 annually per importer, the card can be renewed in the course of a single year, in the light of requirements.

Imports from any country are permitted under this card. Nevertheless, in respect of countries with which clearing arrangements exist (Bulgaria, Poland, German Democratic Republic, Czechoslovakia, Romania, USSR, Mainland China and the United Arab Republic) settlement must be within the framework of the payments agreement concluded with the country concerned.

- Import certificate

Notice to importers No. 113 published in the Official Gazette of 5-9 March 1971 re-introduced the import certificate under which the products included in List II may be imported from all countries other than those with which Tunisia does not maintain trade relations.

The import certificate covers one consignment only. It is valid for three months from the date of domiciliation, and cannot be extended. It is valid for goods despatched directly to Tunisia prior to the date of expiry of the certificate.

The import certificate procedure may be utilized only by manufacturers (physical persons or corporate bodies) for the needs of their own undertaking.

- Annual import authorization

The annual import authorization (AIA) was established under notice No. 112 published in the Official Gazette of 5-9 March 1971.

Under the new procedure, certain undertakings are authorized to carry out their annual programme of imports once that programme has been approved by the competent services.

The following are eligible for the AIA procedure:

- manufacturers, in particular exporting manufacturers.
- organizations responsible for supplying the country with certain essential products or products intended for industry.

All products other than those imported under an import certificate can be covered by the annual authorization, whatever the import régime applicable to them (liberalized, under quota, or prohibited) or their origin or provenance.

When examining the import programme of the undertaking concerned, however, the administration may exclude one or more products which are not in need of this procedure because of their nature, volume or intended use.

Annual import programmes are presented to the Trade Directorate in tabular form before 1 October each year, covering requirements for the coming calendar year.

The annual authorization is valid for one year with no possibility of extension. The term of validity runs from 1 January and the authorization remains valid in respect of goods despatched directly to Tunisia on 31 December.

4. It goes without saying that the import licences are intended, on the one hand, to control imports and, on the other hand, to reduce the quantity thereof in order not to disrupt internal markets.

From the financial aspect, the public authorities endeavour to balance coverage of imports by exports through the licensing system by reducing imports where necessary, and to protect domestic production, ensure equilibrium in the balance of payments and orient external trade.

5. The legal basis for the licensing system is the Decree of 29 December 1955 and subsequent decrees and orders.

Thus, the licensing system does not derive legislative provisions, but from Government action which is generally delegated to the ministerial departments concerned.

As regards the question whether the Government has authority to abolish the licensing system without the consent of the National Assembly, we can state that in the Tunisian Constitution of 1 June 1959 there is no specific provision for such control in this particular field, but that when the Government presents the budget, deputies ask questions and request explanations on individual trading, economic or social procedures.

It is nevertheless easy for the Government to act in this field because the foreign trade system is determined by decrees issued by the Executive, so that it can be abolished or amended either by decree or by enactment of a law.

PROCEDURES

6. (a) Products under restriction as to the quantity or value of imports are generally notified to those concerned by means of "notices to importers" published in the Official Gazette, posted in the offices of the ministerial departments and organizations concerned, and by announcements in the Tunisian daily press.

(b) The amount of global quotas is fixed on a yearly basis, running from 1 January to 31 December of each year; on the other hand, no period is fixed for bilateral quotas because imports are effected at irregular intervals as from the date on which the agreement concerned enters into effect between Tunisia and other countries.

Import licences are valid for six months and are, in fact, issued in the light of national requirements.

Where importers have not been able to utilize a licence within the six-month period they can obtain an extension to the extent that remaining quotas permit, or can submit a new licence application.

(c) In the context of imports subject to restrictions, licences are allocated only partly to domestic producers of like goods, another portion being allocated to non-producing traders.

The Trade Directorate ensures that licences are used by importers by means of the copies of authorizations returned to it by the various customs services and the Central Bank of Tunisia, so that it can debit the foreign exchange released for the licensees.

Unused allocations are not added to quotas for a succeeding period.

(d) The time allowed for submission of applications for licences varies according to the period of validity of the quota. In principle, it runs from the date of issue of the notice to importers to the date on which the quota is exhausted.

(e) The length of time for processing applications varies from one to three weeks.

(f) In principle, there is no time lag because imports can begin as from the date of publication of the notice in the Official Gazette, and continue until the quotas are exhausted, except in certain cases where the notice to importers stipulates the date on which licences are to be granted and that on which the import period is to commence.

(g) Licence applications are examined by one single administrative organ, the Trade Directorate of the Ministry of National Economy.

However, certain applications are transmitted to other departments and other departments of the Ministry of the Economy, for a technical opinion.

The organs from which a technical opinion is most frequently requested are the Ministry of Agriculture and the Industry Directorate of the Ministry of National Economy.

(h) Import licences are allocated by the Trade Directorate on the basis of certain clearly defined criteria. First of all, on a first-come first-served basis,

.. according to the size of the undertaking, priority being granted to those of overriding significance for the national economy; and

.. the category of activities; here, manufacturers and farmers have a considerable advantage over other applicants.

Lastly, applications are examined as and when received.

(i) In this particular case the Tunisian authorities require import licences, the issue of which is automatic only to the extent that the goods are urgently needed or intended for vital sectors of the national economy.

(j) The administration has not noted any case of this kind; we believe, however, that such information should come first of all from the exporting country, or in any case be given on the occasion of the meetings held periodically between trade delegations of the two countries.

(k) No, the issue of licences is not subject to the condition that goods are re-exported. Licences are issued only for imports to be sold or consumed on the domestic market.

7. (a) There is no limit, everything depends on the wisdom of importers. In any case, the latter always arrange to receive their documents before the goods arrive.

In exceptional cases and in the light of certain economic, health or military circumstances, licences can be obtained within a shorter time-limit.

(b) This is possible in any very urgent and important case.

(c) No period of the year is particularly appropriate for submission of licence applications.

(d) Apart from the transfer authorization (X2) which is submitted to a bank authorized to act as an intermediary which passes it on to the DCT, applications for import and transfer authorizations as well as applications for licences are submitted to the Trade Directorate. The latter is therefore responsible for considering them.

Certain applications are subsequently passed on to other departments for a technical opinion (see reply to question 6(g)).

8. Apart from failure to meet the normal criteria, the principal reasons for refusing a licence are of two types:

- foreign exchange availabilities are inadequate;
- or the quotas opened for importers are exhausted.

In general, the reasons for refusal are not given to the applicant and the latter has no right of appeal.

9. Physical persons and corporate bodies under private or municipal law are eligible to apply for licences, whether or not under restrictive licensing systems, provided they are engaged in a commercial, industrial or agricultural activity.

In addition, they must first obtain a customs code number from the administration, as this gives them importer status. They must also furnish a copy of the following documents to the Trade Directorate:

- receipt of payment of licence fee for the current year,
- copy of the relevant entry in the commercial register,
- a specimen signature on pasteboard,
- together with all relevant receipts and documents certifying that the tax affairs of the party concerned are in order, for example, those concerning:
 - the comprehensive income tax declaration,
 - the vocational training tax,
 - the provisional advance payment, etc. ...

In order to obtain a customs code number, applicants are required to furnish the following documents:

- (a) A trade authorization for the following sectors of activity:
 - construction materials,
 - foodstuffs,
 - textiles.
- (b) An industrial authorization for all industrial categories.
- (c) A copy of the relevant entry in the commercial register (required from manufacturers as well as traders).
- (d) In the case of corporations, a copy of their statutes (except from private companies).
- (e) A receipt of payment of licence fee.
- (f) And the sales contract in the case of new purchasers of a business.

No fee is charged in respect of the customs code number.

DOCUMENTATIONAL AND OTHER REQUIREMENTS FOR APPLICATION OF LICENCE

10. The importer must first of all obtain the appropriate form on which to make his import application. Apart from whatever additional documents may be required by the administration, the following documents are generally supplied with the application:

- Two stamped envelopes addressed to the importer; one of these to be used for sending him the acknowledgement of receipt and registration number, the other to inform him of the administration's decision.
- A five-copy set of pro forma invoices, one being the original. These must show the following particulars:
 - designation and specification of product,
 - unit price,
 - quantity,
 - total value (f.o.b.) (even if the contract provides for other conditions),
 - conditions for payment,
 - date, stamp and signature of the supplier.

The basic particulars of the pro forma invoice must correspond to those shown on the final invoice presented at the time of customs clearance.

All other import documents must include the following indications:

- Importer (name, address, activity, customs code number ...).
- Goods (tariff heading number and description, trade designation, quantity, f.o.b. value even if the contract provides for other conditions).
- Country of origin and provenance.
- Supplier.

The documents nevertheless differ as to format, number of sheets and colour.

11. Customs documents are required upon actual importation. Apart from the customs declaration, the customs authorities require a form ATN 1 (certifying that the goods are imported from an EEC country) - not required in respect of non-EEC areas - the invoice indicating the number and arrangement of packages, a bill of lading and the import document.

12. No licensing fee is charged, but the forms have to be purchased from the Chamber of Commerce; their value varies between D 0.100 and D 0.150.

13. In principle, the importer is not required to make any deposit or advance payment before a licence is issued.

CONDITIONS OF LICENSING

The period of validity of import documents varies according to the country and the régime applicable to the products concerned. Thus:

- the transfer authorization (form X2) is valid for four months. In the event that it is not used, the party concerned must submit an X2 bis application to the BCT.

- the import and licence application is valid for six months following the date of issue. If it is not used during the period of validity the importer must so inform the administration. Any requests for amendment of any of the particulars indicated on the document (period of validity, nature of the goods, value, origin and provenance ...) must be made on form "Annex 18".

- the import card is valid for one year and may be renewed in the course of the year in the light of requirements.

- the import certificate is valid for three months following the date of domiciliation; it cannot be extended.

- the annual import authorization is, as its name indicates, valid for one year without possibility of extension. This period runs as from 1 January of each year.

15. No penalties are applied towards importers who fail to utilize a licence or part of a licence. However, as a safeguard, the administration reserves the right to take this into account when considering applications.

16. Licences are not transferable.

17. No other conditions are attached to the issue of a licence.

18. Apart from import licensing and similar administrative procedures, no other administrative procedures are required prior to importation.

19. Yes, foreign exchange is automatically provided by the BCT authorities for goods to be imported, provided that the payment conditions indicated on the licence are complied with.

In addition, before licences are issued by the competent authorities, they are transmitted to the Central Bank for endorsement; this ensures that foreign exchange is always available corresponding to the licences issued.

There are only bank formalities to be fulfilled for obtaining foreign exchange: first to be domiciled with an approved bank, and then to present all guarantees of solvency.