WTO Agreement on Import Licensing Procedures

An Overview

Workshop on QR Notifications
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Use of Import Licensing is not prohibited in the WTO

Preamble of the Agreement:

- “Recognizing the **usefulness** of automatic import licensing for certain purposes.....”

- “Recognizing that import licensing **may be employed to administer measures** such as those adopted pursuant to the relevant provisions of GATT 1994.”

- “Recognizing that the flow of international trade **could be impeded by the inappropriate use of import licensing procedures.**”
Import licensing is defined as administrative procedures used for the operation of import licensing regimes requiring the submission of an application or other documentation (other than those for customs purposes) to the relevant administrative body as a prior condition for importation into the customs territory of the importing Member. (Article 1.1)

... Art. 1 footnote 1: These procedures referred to as “licensing” as well as other similar administrative procedures.

... includes technical visas, surveillance systems, minimum price arrangements, and other administrative reviews effected as a prior condition for entry of imports (G/LIC/3)
Examples of Import Licensing in different names

- Brunei Darussalam: Application Permit (AP) System on alcohol and cigarettes;
- Dominican Republic: Clearance Certificate on telcom equipment;
- Hong Kong, China: Removal Permit/Import Authorization on Chemicals;
- Japan: Import Trade Control Order on Animals;
- Mauritius: Plant Import Permit (PIP) on Plants;
- Morocco: Import Indenture on all products;
- Turkey: Import Communique on all products;
- South Africa: Import Control on all products;
- Burkina Faso: Prior import declaration (DPI) on refrigerators / Special Import Authorization (ASI) on Arms and ammunition.
Import Licensing are often used for

1. Collect import statistics (i.e. market surveillance)

2. Administer Quantitative Restrictions (i.e. allocate quotas)

3. Regulate imports which may pose a risk to:
   - human health: e.g. chemicals, pharmaceutical products;
   - environment: e.g. ozone depleting substances;
   - consumers: e.g. used vehicles
   - national security: e.g. weapons and explosives

4. Fulfil international obligations under International Treaties
   (i.e. CITES, Basel Convention, Montreal Protocol, UN Security Council Resolution etc.)

5. Other purposes
Linkages between Import Licensing Agreement and other WTO Agreements

- **Quantitative Restrictions** (GATT Article XI; G/L/59/Rev.1)
- **Agriculture (AoA)**
- **Sanitary and Phytosanitary Measures (SPS)**
- **Technical Barriers to Trade (TBT)**
- **Safeguard Agreement**
- **Obligations under International Treaties**

**GATT Article XIII:** Non-discriminatory Administration of Quantitative Restrictions

**GATT Article XX:** General Exceptions

**GATT Article XXI:** Security Exceptions

**GATT Article XX:** General Exceptions
Two categories of Import Licensing

Import Licensing Procedures

Automatic Import Licensing

Approval of the application is granted in all cases, so it is supposed to have no trade restricting effect.

Non-Automatic Import Licensing

Shall not have trade restrictive/distortive effect; shall be no more administratively burdensome than absolutely necessary!
PRODUCT COVERAGE: 22 FRESH, FROZEN + 17 PROCESSED PRODUCTS
(Article 2 and Appendix I, JE-10; Article 7(1) and Appendix II, JE-15)

[STEP 1] MOT IMPORTER DESIGNATION

END-USE REQUIREMENTS

PI-H

- Raw material in Industrial production process only
- API-U
- MOA RIPH
- Proof of control over appropriate storage facilities
- Proof of control over appropriate transportation
- Etc.

Art. 1(6)(1)(8), 7, 15, JE-10

RI-H

- Human consumption, transfer to Distributor only
- API-U
- Stamped agreement not to sell directly to consumers or retailers
- Proof of ownership of appropriate means of transportation
- Proof of ownership of appropriate storage facilities
- Proof of contracts: at least 3 distributors
- Etc.

Art. 3, 16-17, JE-10

[STEP 2] MOA RIPH RECOMMENDATION

END-USE REQUIREMENTS

RI-H/FRESH

- API-U
- RI-H designation (product, HS code, time of entry, country of origin, entry point)
- Statement “harvested less than 6 months previously”
- Proof (i) ownership storage and distribution facilities, and (ii) facility is of suitable capacity
- Distribution plan (harvest period)
- Etc.

Art. 2, 4, 6, JE-15

RI-H/PROCESSED

- API-U
- RI-H designation (product, HS code, time of entry, country of origin, entry point)
- Import Approval Letter from Agency of Drug and Food Control

Art. 5, 8, 9, JE-15

PI-H

- API-P
- Technical letter of consideration Industry location, and industrial capacity from Ministry of Industry

Art. 8, JE-10

RI-H

- MOA RIPH
- Designation RI-H

Art. 11(1), JE-10

PI-H + RI-H

- MOA RIPH
- Designation RI-H

Art. 13, 30, JE-10

STEP 3 MOT IMPORT APPROVAL

Art. 13A, JE-10

2 application windows: 1 month, in Dec and June; chilli and shallot: “at any time”

STEP 4 TECHNICAL ENQUIRY

Art. 11A, JE-10

RI-H

Examination by Surveyor at port of origin includes data on:
- Country and port of origin;
- Tariff or HS code; product description;
- Type and volume;
- Shipping time;
- Port of destination;
- Health Certificate;
- Phytosanitary Certificate (fresh horticultural products);
- Certificate of Origin;
- Etc.

Art. 1(15), 14B, JE-10

RI-H + PI-H

Sources: Based on MOT 16/2013 as amended by MOT 47/2013 (JE-10) and MOA 86/2013 (JE-15).
### Summary Table of Article 1.4(a), 5.1-5.4, 8.2(b) and G/LIC/3

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| **What need to be notified?** | • Sources (in which the information concerning import licensing procedures are published)  
|                         | • Copies of publication made to the Secretariat.            | • List of products;  
|                         | • A summary of the notification in one of the WTO languages (for non-WTO language publications).  | • Contact point for information on eligibility;  
|                         |                                                              | • Administrative body(ies);  
|                         |                                                              | • Date and name of publication where licensing procedures are published;  
|                         |                                                              | • Indication of Automatic or Non-automatic;  
|                         |                                                              | • Administrative purpose (A);  
|                         |                                                              | • Measures being implemented (NA);  
|                         |                                                              | • Expected duration of the licensing procedure.  
|                         |                                                              | • Any change in IL procedures. (5.3)  
|                         |                                                              | • Publications where information required in Art. 1.4. (5.4)  
|                         |                                                              | • Full text of relevant laws and regulations in effect on entry into force of the WTO Agreements (for non-Tokyo Round Parties);  
|                         |                                                              | • Any change in relevant laws and regulations;  
|                         |                                                              | • Any change in the administration of laws/regulations.  
|                         |                                                              | • A summary of the notification in one of WTO languages. (for non-WTO language publications).  |
| **When to notify?**     | Ad hoc.                                                      | Within 60 days of publication                                                  | Full notification upon accession; ad hoc                                            |
Article 7.3 Annual Questionnaire: Notification requirements

**Outline of System**
- **Q1**: brief description

**Purpose and Coverage of Licensing**
- **Q2-5**: product coverage, country origin, purpose, laws/regulation

**Procedures**
- **Q6, Q7—8**: application window; rejection; appeal

**Eligibility of Importers to Apply for Licence**
- **Q9**: eligibility; registration fee, list of authorized importers

**Documentational and Other Requirements for Application for Licence**
- **Q10-13**: form and documents for application; licensing fee; deposit

**Conditions of Licensing**
- **Q14-17**: validity of licence; penalty; transferability

**Other Procedural Requirements**
- **Q18-19**: Other procedural requirements; Foreign exchange
Example of Reply to Annual Questionnaire: USA (G/LIC/N/3/USA/13)

The following communication, dated 2 November 2016, is being circulated at the request of the delegation of the United States.

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The following communication, dated 30 September 2016, is being circulated at the request of the delegation of Japan.

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Import Licensing is a legitimate trade policy tool in the WTO; QR is generally prohibited under Article XI.

Both Automatic or Non-automatic Import Licensing, if inappropriately used, could have trade restrictive effect and could be found violating GATT Article XI or other provisions.

Import licensing are commonly used to administer quantitative restriction (i.e allocate quotas)

Agreement on Import Licensing Procedures (AILP) applies only on import measures, while QR Decision covers both import and export quantitative restrictions.

Notification requirements and frequency of notifications are different under AILP and QR Decision. The AILP contains more comprehensive and detailed notification requirements.

There are some overlaps, in particularly when notifying non-automatic import licensing (NAL) and conditional prohibitions (CP) in QR notifications. The overlapping issue could be partially addressed by cross reference.
Thank you for your attention!

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