

GENERAL AGREEMENT ON TARIFFS AND TRADE

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REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

AUSTRALIA

Revision

The following notification has been received from the delegation of Australia in response to the questionnaire on import licensing procedures annexed to document L/5106/Rev.1. It comprises two sections with the relevant information on:

1. Customs (Import Licensing) Regulations, covering industrial products (pages 1 to 6); and
2. Customs (Prohibited Imports) Regulations, covering narcotic drugs and certain psychotropic substances (pages 6 to 11).

The present revision replaces the data previously made available to contracting parties in document L/5108 and Corr.1.

1. Customs (Import Licensing) Regulations covering industrial products

Outline of system

1. - Import licensing in Australia applies only in respect of designated goods (see question 2), the majority of which have been placed under quantity control on a short-term basis as an emergency protective device where industry has been found through public enquiry to be in need of urgent assistance.
- A few commodities are controlled on a longer-term basis without restriction on quantity where the allocation of licence is related to domestic equivalent availability.
- The system is operated through legislation which requires all goods (other than those excepted by the Minister) to be covered by import licence: the Minister has excepted all goods except those few now controlled.
- The Department of Industry and Commerce (Australian Customs Service) is responsible for the administration of the system.
- The power to impose quantitative restrictions on additional products is vested in the Minister or his delegate.

Purposes and coverage of the licensing

- 2/3. - All licensing restrictions are imposed as a protection to Australian industries.
- All licences are issued by the Department of Industry and Commerce (Australian Customs Service).
 - Goods covered and origin concerned are:

<u>Goods</u>	<u>Origin</u>
Used, secondhand or disposals earthmoving or excavating vehicles, machinery or equipment, tractors, roadrollers, materials handling equipment and parts thereof	Global
Used, secondhand or disposals four-wheel drive vehicles excluding public service type passenger vehicles	Global
 - Passenger motor vehicles (C.B.U.)¹ Global
 - There are generic exemptions from the above:
 - . Non-commercial importations up to \$A 100
 - . Goods from an Australian territory
4. - Intention of all licensing is to restrict quantities imported as an assistance to recovery of local industry.
- In general licensing has been introduced only where other restraint measures have been considered to be inappropriate or ineffective.
5. - Import licensing is maintained under the Customs (Import Licensing) Regulations (statutory requirement).
- Decision to apply licensing is at ministerial level but generally follows governmental decision.
 - The system may be abolished without legislative approval but would only be so abolished with the full agreement of the Government.

¹The Government has decided that import licensing controls will cease after 1984 for passenger motor vehicles and will be replaced by a system of tariff quotas.

Procedures

- 6(a) - Licensing imposition announced by Ministerial press statement, followed by detailed explanation through public Australian Customs Notice.
 - The overall quantity to be admitted is publicized.
 - There is no mandatory allocation of licences between different origins (importers are free to nominate source).
 - Allocations to individual importers are publicized. Names and addresses of licence holders and quantities are published in a Government Gazette available to the public. A decision has also been taken by the Government to publicize in the Gazette details of units of licensing entitlement held by individual importers and details of transfers of entitlement.

- (b) - Governmental decision following public inquiry fixes the overall quantity admissible, generally for a period of one year initially.
 - A re-examination of the industry situation will normally be made before the end of the first year if licensing for a second year is contemplated.
 - Allocation of licences to importers is generally on a twelve-monthly basis. It is necessary for importers to apply for allocation after initial period.

- (c) - Allocation of licences is to established importers in proportion to relevant importations made during a base period, irrespective of whether also a domestic producer.
 - There is no compulsion to use the licences issued: unused allocations are not generally carried forward to succeeding period. In the case of passenger motor vehicles, under-utilization will result in the loss of two units of allocation for each one unit not used in the previous allocation year.
 - Names and addresses of licensed importers are published in a Government Gazette available to the public.

- (d) - Generally, twenty-one days is allowed for application for licences following imposition announcement.

- (e) - Applications can be processed in a minimum of twenty-four hours; the maximum is indefinite where the number of importers is high in situations where further information is required from the trade; maximum generally not in excess of three weeks from closing of applications; separate provision is made (minimum delay) for goods in transit and special applications are considered (maximum a few days) for goods arriving prior to licence issue.
- (f) - Where quantity restrictions apply licences for first period of imposition are valid for immediate importation; licences for subsequent periods generally available up to three months before importation period but depending upon industry consideration and/or hardship allocations, the period between issue and import entitlement could be nil.
- (g) - Issue of import licences is solely by the Department of Industry and Commerce (Australian Customs Service).
- (h) - The allocation of licences where quantity restrictions apply is generally on the basis of past import performance. Import licensing on secondhand vehicles and equipment is administered on a case-by-case basis.
 - Licence applications are considered simultaneously but hardship and applications for licences to import secondhand goods are considered as received.
- (i) - Not applicable.
- (j) - No arrangements currently exist for imports to be made on the basis of export permits.
- (k) - Provision to issue this type of licence exists should the need arise.
- 7. - Not applicable.
- 8. - Applications for import licence are only refused on grounds of failure to meet the specified criteria.
 - Applicants are advised of the reasons for any refusal.
 - Right of appeal to the Minister is included in the legislation.

Eligibility of importers to apply for licence

- 9. - There is no restriction on who may apply for a licence.
 - The restriction is on grant of a licence and then only to the extent of the specified criteria.
 - No import licence will be sent to a company or person normally resident outside Australia.

Documentational and other requirements for application of licence

10. - Application form is not generally required for goods under licence control; detail obtained from submission of evidence of base period performance.
 - Where application is required, detail necessary is:
 - . Name and address of applicant
 - . Port of importation
 - . Tariff item
 - . Quantity and full description of goods, including origin
 - . Value for duty of the goods
 - . CIFE and/or weight of the goods
11. - Upon entry of goods subject to import licence, a Customs Entry (Goods Declaration) and invoices are required to be produced.
12. - There is no licensing fee or administrative charge payable.
13. - Not applicable.

Conditions of licensing

14. - The period of validity of a licence is as specified therein.
 - Generally, the period of validity is twelve months with few exceptions according to circumstances of control.
 - Consideration is given to further extension of validity upon request.
15. - Eligibility for future licences is based upon utilization of past allocation. See item 6(c), page 3.
16. - Import licences are not transferable, however licensing entitlement may be transferred.
17. - Other than as specified above, no other conditions attached to the issue of an import licence.

Other procedural requirements

18. - Except for currency exchange control formalities administered through the Reserve Bank of Australia (and its agencies), no other administrative controls apply prior to the importation of goods subject to import licence.
19. - There are not normally any restrictions on payments for imports. It is not necessary for an import licence to be produced before payment is authorized.
 - Australia's trading banks have been authorized to handle the exchange control aspects of the great majority of current transactions and applications for the necessary foreign exchange should be made direct to a trading bank.
 - Australian importers are normally required to make payment not later than six months after the arrival of the goods in Australia. Pre-payments earlier than one month prior to expected arrival date are not normally permitted. Payments outside those limits are allowed where it has been established to the satisfaction of the Reserve Bank that such payments are normal commercial practice in the particular circumstances or for the particular type of goods involved.

2. Customs (Prohibited Imports) Regulations covering narcotic drugs and certain psychotropic substances

Outline of system

1. - Import licensing is used to control the importation of narcotics and certain psychotropic substances into Australia. The system is a two-tiered structure in which an importer must first be licensed and then an import permit must be obtained for every importation of the controlled drugs.
 - In special circumstances, an importer may be licensed for a single importation if certain conditions are satisfied. This enables a university or other institution to import drugs for a specified purpose, although they do not normally hold an import licence. In such cases an import permit is issued and endorsed to constitute a licence for that consignment.
 - These controls ensure that importation is restricted to quantities necessary to meet medical and scientific requirements and that Australia's international obligations and domestic regulations are observed.

Purpose and coverage of the licensing

2. - The licensing system covers all narcotic drugs and certain psychotropic substances. These are listed in the Fourth Schedule of the Customs (Prohibited Imports) Regulations.¹ It includes all of the drugs required to be controlled under the Single Convention on Narcotic Drugs, 1961, and the Convention on Psychotropic Substances, 1971. In addition, a number of other drugs not covered by the Conventions are similarly controlled in Australia.
3. - The system applies to imports of controlled drugs from all countries. Narcotics are only imported from countries which are Parties to the Single Convention on Narcotic Drugs, 1961.
4. - The use of import licences and permits enables the Government to restrict and monitor the quantities of the controlled drugs imported. By monitoring imports, the origin, quality, quantity and end-use of drugs can be checked. Restricting imports to the level required for legitimate medical and scientific use is one means of protecting the public health and welfare of the population from over-supply, diversion and abuse of controlled drugs. The system is based on the requirements of the international treaties.
5. - The Customs Act 1901; Customs (Prohibited Imports) Regulations.
 - Licensing of importers is a statutory requirement under the above regulations.
 - The drugs subject to licensing control are determined by statutory rules.
 - The system cannot be abolished without legislative approval.

Procedures

- 6(a) - Allocation of quotas for narcotics are not published. Each year licensed importers are invited to nominate their annual requirements. The quota allocated is based on the quantities imported by each holder of a quota in previous years and the expected medical demand. Importers are advised of the quotas allocated to them. A new licensed importer may be granted a quota if it is appropriate to the existing circumstances. Details of

¹A copy of this document is available for consultation in the GATT secretariat (Centre William Rappard, office No. 1073).

quotas are not made available to exporting countries. Estimates of narcotic consumption, and stocks are forwarded to the International Narcotics Control Board (INCB). Similar estimates are forwarded for all drugs listed in Schedule 2, Convention on Psychotropic Substances. Estimates from all Parties to the international Conventions are published in United Nations documents.

- (b) - Quotas are determined annually. Quantities imported are reviewed with every application for an import permit. Additional quotas may be issued if the quota holder can demonstrate that the original quota is insufficient.
- (c) - Import permits are only issued to licensed importers. To be a domestic producer is not a requirement for a licence. If an import permit is not used within the specified time, it lapses. Unused allocations are not added to quotas for succeeding periods. The names of licensed importers would be disclosed on request, but not their quota allocations.
- (d) - Not applicable; individual determinations are made for licences and permits.
- (e) - In urgent situations an import permit can be issued immediately. (This can also constitute a licence in special circumstances - see question 1 above.) Applications for import licences and import permits are reviewed as they are received. An import permit is usually issued within two or three days.
- (f) - Import licences are valid for a finite period usually five years. Import permits are usually valid for six months. This can be extended if necessary. Import permits for narcotics issued after 30 June are only valid until 31 December.
- (g) - All applications for import licences and import permits for controlled drugs are forwarded to the Drugs of Dependence Branch, Commonwealth Department of Health. When an application for an import permit involves the importation of a new drug, new formulation, etc. approval must first be obtained from the Therapeutic Goods Branch, and if necessary, Quarantine Division, Department of Health. The applicant must obtain this approval before a permit is issued.
- (h) - Licences are issued on the basis of normal trade requirements. Applicants are approved if they meet specified conditions including previous history in the market, security provisions, record keeping, State approval, etc. Import permits are issued to

licensed importers as required, within quota limits, based on medical and scientific needs. Quotas for narcotics and certain psychotropic substances are set within national estimates submitted to the INCB. The system is flexible enough to allow part of individual quotas to be transferred from one licensee to another and for new licence holders to enter the market.

- (i) - Narcotics covered by an import permit must also be covered by an export permit issued by the appropriate authority in the exporting country. It is a provision of the Single Convention on Narcotic Drugs, 1961, that an export permit is only issued after an import permit is issued. In addition, export permits are also required from exporting countries for drugs covered by the Convention on Psychotropic Substances and certain other specified drugs. (These are listed in the Fourth Schedule of the Customs (Prohibited Imports) Regulations.)
 - (j) - Not applicable.
 - (k) - Yes; when quantities are imported for the purposes of re-export and where such quantities exceed the domestic requirements.
- 7(a) - There is no specified time for an importer to apply for a licence in advance of an importation, but an import permit would not be issued unless the importer is licensed. Similarly, there is no specified time for a licensed importer to apply for an import permit in advance of an importation, but a consignment cannot be imported without a permit.
- (b) - A licence could be issued immediately, but this would not be the usual practice. An import permit can be issued immediately to a licensed importer on request.
 - (c) - No.
 - (d) - Yes; both import licences and import permits are issued by the Director-General, Commonwealth Department of Health.
8. - An import licence is issued subject to certain conditions - see question 10 below. Prior to being issued with a licence applicants must demonstrate that they can comply with these conditions. Reasons for refusal would be given to an applicant. Applicants may appeal against a refusal to issue a licence or against a decision to revoke a licence. Import permits for narcotics may be refused if there is insufficient quota balance, security measures are inadequate or if any of the required conditions are not satisfied. Import permits for other controlled drugs may be refused if the importation is excessive to normal requirements, or if any of the required conditions are not satisfied.

- New drugs or formulations must be approved before a permit can be issued.
- There is no provision to appeal against a decision not to issue or to revoke an import permit.

Eligibility of importers to apply for licence

9. - Yes. Import licences are granted by the Director-General of the Commonwealth Department of Health subject to certain conditions and subject to applicants' meeting specified criteria.
- Import permits are only issued to licensed importers except in special circumstances - see question 1 above. A list of licensed importers is available. There is no registration fee.

Documentational and other requirements for application of licence

10. - An application for a licence must be made in writing to the Director-General, Commonwealth Department of Health, and include information as required. A copy of the regulations is attached. An application for an import permit is made in writing and must include the following:
- Name of importer; address for consignment; number and size of packs; name, pharmaceutical form and strength of drug; name (INN if any); controlled drug content (grams); name of exporter; address of exporter.
11. - The import permit is the required document and in some instances the complementary overseas export permit.
12. - There is no charge for a licence or a permit.
13. - Not applicable for a licence.
- Not required for a permit.

Conditions of licensing

14. - Import licences are valid for a finite period usually five years.
- Import permits are usually valid for six months, but the period can be varied to suit particular circumstances.
15. - There is no penalty for non-use of a licence or permit. However, if a licence is not operated on for a period of approximately three years the licence may be revoked.

- 16. - Licences and permits are not transferable.
- 17. - Licences are issued subject to the holder's meeting certain conditions.
 - Import permits may be endorsed for specific purposes, e.g. for veterinary use only, for re-export only, etc.

Other procedural requirements

- 18. - No.
- 19. - Not applicable.