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REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

EUROPEAN COMMUNITIES AND MEMBER STATES

Addendum

The following notification has been received from the European Communities in response to the Questionnaire on Import Licensing Procedures annexed to document L/5106. The present document describes the licensing systems maintained in Denmark and in the United Kingdom and supplements the information circulated in document L/5169 on the licensing systems applied in the Benelux Economic Union countries.

The information reproduced below replaces the relevant data previously submitted by the European Communities in connexion with Denmark and the United Kingdom and included in documents COM.IND/W/55-COM.AG/W/72/Add.59 as amended by Corr.1 and Corr.2 and COM.IND/W/55-COM.AG/W/72/Add.56/Rev.1.

Denmark

Outline of systems

1. Different licensing systems apply under:

   (a) Community regulations outlining special licensing systems for certain products;

   (b) the executive order concerning the importation of goods etc. No. 376 of 21 August 1979 as amended by executive order No. 545 of 22 December 1979 and executive order No. 457 of 27 October 1980.

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

According to Section 1 of executive order No. 376 of 21 August 1976, commodities may be imported without licences unless otherwise provided in the following sections. This means that the import regulations take the form of exceptions to a general rule.

Purposes and coverage of the licensing

2. and 3. These exceptions are specified by commodities and by countries in an annex comprising seven groups of countries:

   (i) European Communities (EC) and Turkey;

   (ii) Japan;

(iii) South Korea;

(iv) Eastern European State-trading countries;

(v) Far Eastern State-trading countries;

(vi) Taiwan;

(vii) Other countries. All countries except the countries listed in (i-vi).

The countries are all defined in conformity with the classification of countries for purposes of trade statistics. The commodities are arranged according to the Customs Co-operation Council Nomenclature with four digits (but some headings have been subdivided).

Licences are issued in accordance with yearly quotas.

If no quota is laid down no imports are envisaged, but licences may be issued for commodities to be re-exported in an unworked or processed condition and for ships' provisions. Other applications are granted only in exceptional circumstances.

4. Licences are for the time being normally issued for quantities. In some cases they are however issued for a specified amount (c.i.f. value). Licensing serves no purpose other than quantitative limitation.

Unrestricted licensing can be used as a tentative liberalization which, in the absence of unforeseen events, will lead to final liberalization after a certain period. It has, however, not been the case in the last four to five years.

5. The legislative basis of the executive order concerning the importation of goods etc. (No. 376 of 21 August 1979) is the act on foreign exchange regulations (No. 372 of 23 December 1964) last amended by Act No. 247 of 9 June 1967. This act requires the Minister of Industry to dismantle the regulation of imports whenever considerations of reasonable conditions of competition for Danish industries and international agreements render such dismantling possible. Reintroduction of import restrictions is subject to approval by a committee appointed by the Folketing (parliament).

Procedures

6. (a) All quotas established in the annual licensing budget are published in "notices from the licensing office of the ministry of industry", which are published when need arises - normally about ten times a year - and circulated free of charge to all importers, trade organizations, the press and to all other persons asking to be placed on the mailing list.

(b) Quotas are determined on a yearly basis. Applications are invited prior to every allocation.

(c) It makes no difference to the consideration of an application for an import licence whether the applicant is or is not a producer of the commodities involved.

In general, import licences show a high degree of utilization. The basis adopted for allocation is reviewed on the basis of past performance, and an importer having made little use of his quota will see it reduced in the next allocation. Unused allocations are not added to the quota for the next period. Year-on-year increases in quotas are normally made for other reasons. The names of importers to whom licences have been allocated are not made available to the public.

(d) The time allowed for submission of applications for quotas to be allocated is three weeks. No time-limit exists for other applications.

(e) The issue of licences against quotas to be allocated must be completed not later than three weeks after the time-limit stipulated for submission of applications, the issue is normally completed in one or two weeks. Other licences are issued three to ten days after receipt of applications.

(f) All licences may be used as soon as they have been issued.

(g) All licences are issued by the Licensing Office of the Ministry of Industry. No application has to be considered by any other organ, and no applicant has to approach other organs.

(h) When a quota is to be allocated the allocations are normally made on the basis of the applicants' imports of the same commodities during the last two calendar years. No maximum amount or share has been fixed. A share - as a rule representing 3 per cent of the whole quota - is earmarked for new importers.

Applications for licences under a quota to be allocated will be considered simultaneously after the expiry of the time limit-stipulated for submission of applications. All other applications are considered on receipt (first come, first served).

(i) and (j) licences are issued in accordance with EEC regulations.

(k) Yes, but such licences are not written off against quotas.

7. (a) No interval is prescribed between the time of submission of an application and the arrival of the commodities. In exceptional cases a licence may be issued on the date when the application for it is received.

(b) Yes

(c) No

(d) All applications are considered by the Licensing Office of the Ministry of Industry. The answer to the other questions is no.

8. Under no other circumstances but failure to meet the ordinary criteria may an application be refused. The reason for refusal is given to the applicant. A decision taken by the Licensing Office in pursuance of the Act on Foreign Exchange Regulations may be referred to an appeals board for matters involving foreign currency. The trade organizations are represented on the board. Appeals to the law courts may be made from decisions made by the board.

Eligibility of importers to apply for licence

9. All importers must be domiciled in Denmark and must have the right to engage in the activities for which the imports are wanted. No special authorization is required for import business.

Documentational and other requirements for application of licence

10. Applications, for which a special form is required, must specify the tariff heading, commodity description, amount, country (or, if applicable, countries) of purchase and origin.

In most cases evidence of the availability of the commodities is required, normally, in the form of a pro forma invoice.

11. Request for customs clearance in the prescribed form duly completed, invoice and shipping documents.

12. No

13. No deposit or advance payment is required.

Conditions of licensing

14. Licences are generally valid for nine months, they may normally be extended by another six months and thereafter by another three months: in both cases they must be sent to the licensing office for endorsement.

15. No fine or other penalty is imposed for non-utilization of a licence or part of a licence.

16. Licences are generally transferable from one importer to another with the assistance of a central trade organization, provided that the importer to whom a licence is transferred sells a corresponding amount of commodities to the importer by whom the licence was transferred. In other cases, transfer of licences between importers is prohibited.

17. Expired or utilized licences must be returned to the licensing office.

Other procedural requirements

18. No

19. Under the existing foreign-exchange regulations, payments for commodities may be freely made through a bank, whether the commodities are subject to licensing or not, provided that the terms of payment conform to normal commercial practice. A "notice of foreign payments" must be given to the bank.

UNITED KINGDOM

1. Outline of systems

Import licensing arrangements in the United Kingdom are operated under various legislative measures, principally the Import, Export and Customs Powers (Defence) Act 1939. The main instrument for import licensing is described in the paragraphs below. The scope of the scheme is comprehensive and covers all types of general imports except explosive and therapeutic substances (as defined by United Kingdom legislation and statutory orders); live animals including domestic pets and certain species of wild birds, alive or dead; and the following agricultural products: cocoa, meat and meat products, certain animal products, certain fresh fruit and vegetables, hay straw and dried grass, and trees, plants, seeds etc. For these categories of imports there may be different or additional administrative requirements. These detailed requirements for individual products are not annexed to this return but the information is available should any delegation wish to seek further clarification.

Purpose and coverage of the licensing

2. All goods to be imported from any source require an import licence, but the vast majority may be imported without restriction on the authority of an Open General Import Licence.

3. The products listed below cannot be imported on the authority of the Open General Import Licence when originating from the sources indicated. (These sources are described in detail in the Open General Import Licence). For these products an importer is required to apply for an individual import licence.

(i) From all sources

Firearms and ammunition
Certain radioactive substances

(ii) Dollar area

Bananas

(iii) State-trading area

Certain agricultural and manufactured goods and textile products

(iv) Developing countries

MFA textiles

(v) All sources other than the ACP, CEFTA, Mediterranean and OCT areas

Jute fabrics and manufactures

(vi) All sources other than the EEC

Polyester yarn
Certain iron and steel products

(vii) All sources other than the EEC and State-trading area

Phosphate fertilizers

(viii) Romania

Aluminium products

4. The purposes of the control are, according to the nature of the product:

(i) to restrict the quantity or value of imports. In some cases this is in the interests of the United Kingdom's overseas suppliers (e.g. bananas);

(ii) to protect public safety or health (e.g. firearms and radio-active substances);

(iii) to provide more details of imports than are available from normal statistical returns (e.g. textile yarns, fabrics and made-ups, of the main textile fibres).

Licensing control to restrict imports by quantity or value is employed only when alternative means of achieving a particular purpose are unsuitable. In some cases international obligations may require the use of licensing restrictions rather than other methods of control. For the purposes listed above, there is no practicable alternative.

5. The Import of Goods (Control) Order 1954, made under the Import, Export and Customs Powers (Defence) Act 1939. The legislation leaves designation of controlled products to administrative discretion and the control could be abolished without legislative approval.

Procedures

6. (a) Information about the allocation of quotas, and formalities for applying for licences where this is required is announced as appropriate in Parliament in press notices and by means of notices to importers in the weekly journal "British Business", published by

the Department of Trade and Industry. So far as exporting countries are concerned information announced in this way is available to their representatives in the United Kingdom in the same way as it is domestically to importers or others concerned. The "overall amount" of the quota is published, as is that allocated to imports from particular sources where applicable. The maximum amount allocated to each importer is not published.

(b) The period to which quotas for particular products are related may vary according to the product but twelve months is the most usual. Licences are normally but not invariably issued for the period of the quota. When not issued in this way they are valid for a particular consignment of goods or for a limited period within that of the overall quota.

(c) Licences are not deliberately or exclusively allotted to domestic producers of like goods although they are free to apply for them (see paragraph 9 below). Normally no steps are taken to check whether licences are used, and unused allocations for one quota period do not entitle licence holders to carry them over to a subsequent period. Quotas may, however, be re-allocated if persistent failure by some importers to utilize licences comes to light. The names of licence holders are not normally released as the issue of a licence remains confidential to the licence holder concerned.

(d) There are no general rules about the period of time allowed for submitting applications for licences. Each quota is considered on its merits and a time-limit felt reasonable in the circumstances is then established.

(e) No time-limits for processing applications are prescribed, except when goods are subject to surveillance whereby under Community rules, on the provision of the correct information licences should be issued within five days.

(f) For importers' convenience licences are issued, when practicable, in advance of the operative date of the quota but are not valid until then; in other cases they are issued at the start of the quota period, or after it has started, and are valid immediately.

(g) With the exception of the items mentioned in paragraph 1, consideration of licence applications is carried out by one "administrative organ" - the Import Licensing Branch of the Department of Trade to which alone the importer has to apply. (The "administrative organ" concerned may of course wish to consult other government departments in particular cases.)

(h) When the demand for licences cannot be satisfied there are no set rules for allocating them within an overall quota but such criteria as past trading performance, the claims of newcomers, minimum

allocations, are employed as considered appropriate in the circumstances. In such cases the first-come-first-served basis is not used. Applications are examined on receipt, but the actual issue of a licence may be made later, e.g. after a closing date for submitting applications.

(i) An import licence is required in all cases of bilateral quotas or export restraint arrangements, but goods are licensed freely provided the conditions governing the particular arrangements are satisfied, e.g. there may be a limited number of importers entitled to apply for licences and checks may be kept on the amount of the quota that is utilized.

(j) Import licences are required in all cases.

(k) Generally, licences are freely issued for imports that are thereafter to be exported and not sold in the domestic market.

7. (a) There are no set rules for the time when applications for licences should be made although licences have a limited validity. There would be no objection in principle to granting a licence for goods arriving at a port without a licence provided there was reasonable justification for this.

(b) There is no objection to granting a licence immediately on request, and this often happens; but no set rule can be applied since there would obviously be cases where immediate issue might be impossible, e.g. where special conditions for application had still to be fulfilled or proof of a firm order for the goods adduced.

(c) There are no limitations about the period of the year when applications for licences may be made. Nor would there be any such limitations on the use of the licence as long as it was valid.

(d) As for 6(g) above.

8. There are no general criteria for considering licence applications and each case may have some criteria of its own, depending upon such factors as the product concerned, possible limitations on the class of importers, or the origin of the goods imported. It is the practice to make it known by publication (see the answer to 6(a) above under the heading "Procedures") what are the criteria that apply to particular controls. It would be normal practice also to indicate why applications for licences were refused, but there is no legal obligation to do so. There is no legal right of appeal by an applicant in the event of his being refused a licence.

Eligibility of importers to apply for licence

9. There are no limitations on persons, firms and institutions eligible to apply for import licences except that the applicant must be resident in the United Kingdom or other member State of the EEC. In some cases, however, the class of importer may be limited because of particular features of the product concerned. For example licences to import firearms are granted only to certain dealers or holders of firearm certificates for reasons of public safety (non-restrictive system).

Documentation and other requirements for application of licence

10. The precise information required varies with the product and the purpose of the control. It always includes the name and address of the importers and the description of the goods to be imported. It may also include the quantity and/or value to be imported.[1] Other supporting information may be required in certain cases. For example an export certificate (or similar document) from the exporting country; or returns of past trade where it is necessary to determine allocations within a restricted quota.

11. So far as the import licensing control is concerned, a valid import licence is the only document required on importation.

12. There are no licensing fees or administrative charges.

13. No deposit or advance payment requirements are associated with the issue of import licences.

Conditions of licensing

14. There are no set rules for the period of validity of a licence except where goods are subject to community surveillance. Some licences (see the answer to 6(b) under the heading "Procedures" above) are issued with a period of validity identical with that of the restricted quota concerned. Others are issued for a particular consignment only, with a period of validity considered adequate to cover the arrival of the goods at the port of importation. If an importer is unable to use his licence during its validity, he may always apply for an extension which will be granted if it is felt the circumstances justify this.

15. There is no penalty for not using a licence in whole or in part.

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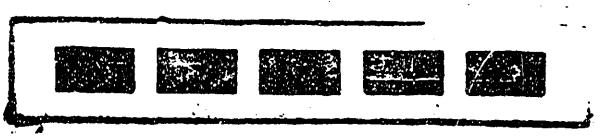
[1] A sample application form is available for reference in the GATT secretariat, Centre William Rappard, Office 1070.

16. Licences are not transferable between importers.

17. Conditions other than a period of validity may be attached to particular licences depending on the circumstances. Examples are requirements about the date by which goods must have been shipped from the country of origin, the purpose for which the goods may be used, or the class of consumer to whom they may be sold. It is not possible to classify these restrictions between products subject to quantitative restrictions and those that are not, although, generally speaking, they are more likely to be imposed in the former case.

Other procedural requirements

18. There are no administrative procedures, apart from import licensing and similar administrative procedures (which is taken to include such things as customs and health requirements) required before goods may be imported.

19. Foreign exchange is provided by the banking authorities where the goods may be imported on the authority of the Open General Import Licence or any individual import licence. Formalities vary according to the value of the import but they are simple and designed solely to establish that the currency is genuinely required for the import of goods.