

GENERAL AGREEMENT ON TARIFFS AND TRADE

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REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

UNITED STATES

The following notification has been received from the delegation of the United States in response to the questionnaire annexed to document L/5640. The present document contains two sections: Section I on Controlled Substances replaces information contained previously in documents L/5131, pp. 20-23, L/5131/Corr.1 and Corr.2. Section II constitutes a new notification regarding licensing of sugar for re-export or for polyhydric alcohol production.

SECTION I

Department of Justice: Controlled Substances

Outline of System

1. The system of import permits, declarations, and quotas is designed to restrict the importation of controlled substances to that quantity necessary to meet the medical, scientific or other legitimate needs of the United States, and to monitor the handlers of such substances. The system also establishes a method by which the United States can meet its international treaty obligations under the 1961 Single Convention Treaty on Narcotic Drugs and the Convention on Psychotropic Substances, 1971.

Purpose and Coverage of the Licensing

2. In order to import any controlled substances, the importer must apply to and be approved by the Drug Enforcement Administration for the specific activity requested, annually. Upon registration approval, prior to importation, the importer must (a) apply for and receive a permit per specific importation for a Schedule I, Schedule II or narcotic controlled substances in Schedules III, IV or V, or (b) submit a specific import declaration per shipment for all non-narcotic controlled substances in Schedule III, IV, or V. The list of basic classes of substances covered by the Controlled Substances Act is available in the GATT secretariat. The following substances have been added to the list:

Schedule I:	Tilidine	(12-1-80)
	Fenethylline	(08-20-81)
	Alpha-Methylfentanyl	(09-22-81)
	N-Ethylamphetamine	(01-07-82)
	Alfentanil	(24-08-84)
	Parahexyl	(22-11-84)
Schedule II:	Sufentanil	(25-05-84)
Schedule IV:	Pipradrol	(12-1-80)
	SPA	(12-1-80)
	Temazepam	(04-07-81)
	Halazepam	(10-29-81)
	Alprazolam	(11-21-81)
	Mazindol	(11-27-81)
	Triazolam	(28-12-82)

The following substance has been deleted from the list of basic classes of substances covered by the Controlled Substances Act:

Schedule IV: Loperamide (3-11-82)

Other than opium or cocoa leaf, no Schedule I or II substance may be imported unless the Attorney General finds (a) an emergency exists in which domestic supplies are inadequate or (b) competition among domestic manufacturers is inadequate and will not be rendered adequate by registration of additional manufacturers.

3. In general the system applies to all importations of controlled drugs, regardless of country of origin. However, the Drug Enforcement Administration has recently taken action to impose limitations on imports of narcotic raw materials. A final rule published in the Federal Register on 18 August 1981¹, amended Section 1312.13 of Title 21, Code of Federal Regulations, relating to the issuance of import permits for narcotic raw materials. This amendment stated, in effect, that the importation of approved narcotic raw materials (opium, poppy straw and concentrate of poppy straw) into the United States shall be permitted only from Turkey, India, Yugoslavia, France, Poland, Hungary and Australia. At least 80 per cent of the narcotic raw material imported into the United States each year shall have as its original source Turkey and India. Except under conditions of insufficient supplies of narcotic raw materials, not more than 20 per cent of the materials imported annually shall originate in Yugoslavia, France, Poland, Hungary or Australia. This amendment became effective 17 September 1981.

¹A copy of this document is available for reference in the GATT secretariat, Centre William Rappard, Office No. 1059.

4. The system is designed to restrict the quantity of imports of controlled drugs (not value) and to maintain a monitoring system. Previous systems were used prior to the CSA (effective May 1, 1971), however, the current system is mandated in law and based upon international drug treaties.
5. The system of registration of importers and the quota system are statutory requirements established in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (CSA), Part C (Sections 301, 302, 303, 306) and the import requirements established in the Controlled Substances Import and Export Act (Sections 1002, 1007 & 1008) (21 U.S.C. 822, 823, 826, 952, 957, 958) and implementing regulations. The CSA statutorily establishes criteria by which drugs are controlled in one of the five schedules subject to import requirements. The system required by statute cannot be abolished without legislative approval.

Procedures

6. a. Annual notice of publication of aggregate production quotas designed to account for the total needs of the United States (either through domestic manufacture or importation) for all Schedule I and II controlled substances is published in the Federal Register on or about July 1 of the year prior to that to which the quota applies. No quota is established for Schedule III, IV or V substances. Additional notice of regulations is published in 21 Code of Federal Regulations, Part 1300 to End.
- b. Quotas for legitimate need are determined on an annual basis, but determinations regarding importations are made at the time of individual applications.
- c. Import permits are issued only on application by registered importers who have demonstrated the legitimate need for the imported substance. Declarations are submitted as notice of import only for monitoring by DEA.
- d. Not applicable; individual determinations are made.
- e & f. Import applications are reviewed as received
- g. DEA considers and approves all applications for importation of controlled substances. Copies of import permits are provided to the U.S. Customs service for monitoring and certification purposes.

- h. Registration is based, in part, on security, records, history of violations, state approval. Import permits are based upon supply and legitimate need for the substance in the U.S.
 - i. Not applicable.
 - j. Not applicable.
 - k. Controlled substances on permits may only be imported for legitimate needs of the U.S.
7. Schedule III, IV, and V non-narcotic controlled substances are subject to import declarations, and importers subject to registration.
- (a) Importation may be made only by approved, registered importers. An import declaration must be filed 15 days in advance of the proposed date of import. In special circumstances, the 15 days may be waived administratively.
 - (b, c) Not applicable.
 - (d) Yes, DEA
8. A registered importer can be refused an importation if he cannot demonstrate the need, in line with above criteria, in the United States. The importer may appeal the denial through a hearing with the Administrative Law Judge assigned to DEA matters.
9. Imports are only approved for registered importers who must be inspected for adequate records, security, state approval, etc. prior to registration. The registration fee is \$25.00. Researchers are also allowed to import those substances for which they are registered to conduct research.

Documentational Requirements for Applications

10. The information required for an import permit is set forth in 21 C.F.R. 1312.12 and includes (a) name, address of consignor, (b) foreign port of export, (c) U.S. port of entry, (d) dates of shipment, (e) name of carrier, (f) amount, and (g) importers allotment for the year.
11. Import permit.

12. No fee is levied per import permit.

13. No.

Conditions

14. Registration is annual. Permits are valid for six months.

15. Importation not pursuant to permit or declaration is subject to seizure, civil, and criminal penalties.

16. No.

17. No.

18. No.

19. Not applicable.

SECTION II

The following changes have been made regarding licensing of sugar for re-export or for polyhydric alcohol production:

Outline of the system

1. Import licenses are required for sugars, syrups and molasses as described in items 155.20 and 155.30 of the Tariff Schedule of the United States (TSUS) which will be used for specified purposes so that such sugar may enter the United States exempt from the import quota on these line items.

Purposes and coverage

2. Import licenses are required only for sugars, syrups and molasses imported exempt from the U.S. import quota which will be:

- reexported in sugar-containing products;
- reexported in refined form; or
- used for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption.

3. The license system applies to goods coming from all countries.

4. The license system is not intended to restrict the quantity or value of imports. It is intended to help U.S. manufacturers and exporters of refined sugar and sugar-containing products remain competitive in world markets by allowing them access to sugar at the world-market price (which is significantly less than the U.S. price), while maintaining the integrity of the U.S. sugar price-support program.

5. Licensing regulations were promulgated by the Secretary of Agriculture under authority granted him by Presidential Proclamations 4941 (May 5, 1982) and 5002 (November 30, 1982). Such licensing is not statutory and may be abolished or changed by the President without Congressional approval.

Procedures

6. (a) An import license for sugar to be reexported in sugar-containing products may be for no more than 10,700 short tons, raw value, per importer. An import license for sugar to be reexported in refined form may not exceed 28,000 short tons, raw value, or, if specifically requested and approved, 50,000 short tons, raw value, per applicant. No more than one license may be issued and be outstanding at any one time to any one refiner. An import license for sugar for production of polyhydric alcohol may not exceed the anticipated requirements of the manufacturer for the 12-month period following the effective date of the license, and its effective period shall not exceed 1 year.

There are no country quotas.

(b) Applicants may request licenses for volumes up to the quantities stated in 6(a).

(c)-(f) Not applicable.

(g) License applications are handled by only one office, Chief, Sugar Group, Foreign Agricultural Service, U.S. Department of Agriculture, 12th and Independence Avenue, S.W., Washington, D.C. 20250.

(h)-(k) Not applicable.

7. (a) Application for license must be made a reasonable time before importation. Turnaround averages 2 days.

(b) A license can be granted immediately upon request, if the license request contains all necessary information required by regulation.

(c) There are no limitations on the period of the year during which application and/or importation may be made.

(d) See 6(g).

8. There are no circumstances other than failure to meet ordinary criteria under which a license may be refused. Applicants may appeal to the Director, Horticultural and Tropical Products Division, Foreign Agricultural Service.

Eligibility of importers to apply for licenses

9. Only manufacturers of polyhydric alcohols or their agents are eligible to receive import licenses for sugar for polyhydric alcohol production. Only manufacturers of sugar-containing products may receive licenses for sugar to be reexported in sugar-containing products. Only refiners may receive licenses for sugar to be reexported in refined form.

There is no registration fee. There is no published list of authorized importers, manufacturers or refiners.

Documentational and other requirements for application of license

10. Application is made to the Licensing Authority in a letter of application, which must contain as a minimum the following information:

- (a) name and address of the applicant;
- (b) license amount requested, not to exceed the maximum allowable amount;
- (c) type of license requested;
- (d) the TSUS item number and description of the sugar to be imported or transferred, if known (not necessary for sugar for polyhydric alcohol production);
- (e) name of the firm that will establish a performance bond in favor of the United States Government on behalf of the applicant, if known (not necessary for sugar for polyhydric alcohol production);

(f) if the application is for an import license for sugar to be reexported in a sugar-containing product, a certification of the existence of the valid tolling contract(s), including name(s) of refiners by which non-quota sugar will be processed, if appropriate;

(g) if the license is for importation of sugar to be reexported in refined form, the name of the anticipated refinery, if known;

(h) if the license is for importation of sugar for production of polyhydric alcohol, a statement of the anticipated requirements of the manufacturer during the effective period of the license;

(i) description of sugar containing products to be exported, if known, and estimated sugar content of such products, if applicable; or anticipated dates of entry of sugar and export of refined sugar, if applicable.

11. In the cases of sugar for reexport after refining or for reexport in a sugar-containing product, the importer must submit to the Licensing Authority a certified statement of the polarization and weight of the imported sugar. In the case of sugar for polyhydric alcohol production, the importer must submit a certification that the imported sugar will be used only for the production (other than by distillation) of polyhydric alcohol, except polyhydric alcohols for use as a substitute for sugar in human food consumption. In all cases, if entry is made by an agent of the license holder, the agent must, upon request, produce for inspection by the appropriate U.S. Custom official or the Licensing Authority a written authorization designating such person to act as an agent for the importation of sugar.

12. There is no licensing fee or administrative charge.

13. Sugar imported under an import license must be subject to a U.S. Customs performance bond. The amount of the bond will equal 1 1/2 times the difference between the daily spot price of Number 12 sugar contract on the New York Coffee, Sugar and Cocoa Exchange or the Market Stabilization Price (whichever is greater), and the daily spot price of the Number 11 contract.

Conditions of licensing

14. An import license for sugar for polyhydric alcohol production is valid for no more than 1 year. The other licenses have no expiration date, although the sugar must be reexported within a certain time after importation. The validity of a license for sugar for polyhydric alcohol production cannot be extended; under unusual circumstances, the Licensing Authority may extend the period for reexport.

15. There is no penalty for non-utilization.

16. Import licenses for sugar to be reexported in refined form may be transferred between importers, with the written permission

of the Licensing Authority and provided the recipient does not have a license. The Authority may impose such terms and conditions in connection with the transfer that he deems appropriate to carry out the program.

17. There are no other conditions attached to the issuance of a license.

Other procedural requirements

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

19. Not applicable.