

GENERAL AGREEMENT ON TARIFFS AND TRADE

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REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

SPAIN

The following notification has been received from the delegation of Spain in response to the questionnaire annexed to L/5640. The present document replaces data previously submitted by Spain in document COM.IND/W/55/Add.69-COM.AG/W/72/Add.69.

OUTLINE OF SYSTEMS

1. In Spain, there are four systems for imports:

(a) FREE IMPORT. Under this system, authorizations (declarations) to import are granted to natural and juridical persons liberally, in the sense of GATT's Import Licensing Code. At present, it covers some 5,900 tariff items (headings and sub-headings) out of a total of 6,400. Exceptionally and without involving any modification in the system, the Administration may engage in a more careful examination of the conditions of an operation, especially when they relate to goods previously classified under a more restrictive system.

(b) GLOBAL QUOTA. Here, imports are subject to prior authorization, whose terms are drafted in advance by the Administration, which determines the conditions that the importer must fulfil in order to obtain an allocation when the global quotas are distributed. Normally, new products have been regularly eliminated from the general system of global quotas. At present, this system applies to only some 70 tariff items, included in 29 global quotas. The number of such quotas amounted to 71 in 1978. In 1959, it should be recalled, all imports were subject to quantitative restrictions under an individual licensing system. Spain has continued to liberalize its imports.

(c) TRADE NEITHER LIBERALIZED NOR UNDER GLOBAL QUOTA. Here, imports are subject to prior authorization, which is granted on a discretionary basis. At the present time, some 50 tariff items are affected by this system.

(d) STATE TRADING. This system relates to goods reserved to the public sector in principle, although in many cases execution of the operation is delegated to private enterprises responding to calls for tenders. At present, some 300 tariff items are affected.

PURPOSES AND COVERAGE OF THE LICENSING

2. Import systems:

(a) FREE IMPORT. The liberalized trading system covers 90 per cent of Spain's customs tariff headings. This system applies to goods which fulfil the following two conditions: (1) they come from OECD or assimilated countries; and (2) they are included in the lists of liberalized products published since 1959, or contrariwise they do not appear in lists of goods classified in other systems. There are two exceptions to this: (1) used or reconditioned goods, or goods from surplus or depreciated stocks; (2) unclassified goods or "seconds". Imports of these two categories come under the system of trade neither liberalized nor under global quota.

(b) GLOBAL QUOTA. This system covers goods fulfilling the following conditions: (1) they come from an OECD or assimilated country; (2) they are included in the lists of global quotas and have not been liberalized since.

(c) TRADE NEITHER LIBERALIZED NOR UNDER GLOBAL QUOTA. This system covers all goods which fulfil one or more of the following conditions: (1) they do not come under the free-import, global-quota or State-trading system; (2) they are used products or "seconds" (see 2(a) above); (3) they come from a country not included in the lists of free-import countries communicated to GATT.

(d) STATE TRADING. This system, described in 1(d) above, covers all goods included in Annex 3 to the Memorandum sent by the Spanish Government to the International Monetary Fund and OECD on 30 July 1959. The list has been updated in Spain's successive communications to GATT. The latest appears in document L/5445/Add.7 and, in compliance with the decisions of the CONTRACTING PARTIES, a newly updated list will shortly be transmitted.

3. The free trade and global quota systems apply to goods coming from countries included in the import liberalization lists communicated to GATT.

The system of trade neither liberalized nor under global quota applies: (1) to goods coming from any country when not covered by the free-import or global-quota systems; (2) to goods coming from countries not included in the import liberalization lists communicated to GATT.

The State-trading system applies to a series of goods because of their particular nature, whatever the country of origin or exporting country.

4. The systems in force are designed to liberalize Spain's foreign trade progressively. As already indicated, in 1959 all imports were subject to quantitative restrictions in the form of a system of individual licences. At the present time, 90 per cent of all tariff headings and/or sub-headings are liberalized for import.

5. The legal basis of the licensing system is the Decree-Law of 21 July 1959 on organization of the economy, which introduced a liberalization programme for both domestic and foreign trade. This Decree-Law was supplemented by a memorandum addressed by the Spanish Government to the International Monetary Fund and OECD, undertaking to apply an import liberalization code with a view to the gradual elimination of government intervention in foreign trade. Various liberalization lists have been published pursuant to that Decree-Law and in accordance with the relevant legislative and administrative procedures.

IMPLEMENTING MODALITIES

6. (a) For goods coming under the global quota system, at the beginning of each year the Directorate-General of Tariff Policy and Imports establishes global quotas for that year, specifying the number of quotas, the goods included and the relevant tariff headings and/or sub-headings, the annual value in pesetas and the method of allocation. That decision is published in the Official Gazette.

Once the list of quotas has been published, successive decisions by the Directorate-General of Tariff Policy and Imports announced the opening of each quota as the year proceeds, specifying the amount to be allocated, the time-limit for submitting applications and the conditions to be fulfilled by applicants.

Once the deadline for submitting applications is passed, the appropriate services of the Directorate-General allocate the quota among applicants on the basis of fixed criteria. The list of authorizations granted is published on the bulletin board of the Ministry of Trade.

(b) The volume of quotas is fixed for one year. Nevertheless, calls are generally made each six months, so that there are two allocations each year, each covering half of the annual quota value. In some instances there is only one allocation, while in others the quota is left permanently open, so that applications can be made at any time.

(c) Licences are granted to importers irrespective of whether or not they are producers. Producer status is not taken into account at the time of allocation except in the case of any quota covering component elements for new equipment.

If the importer does not use the licences allocated to him he is not required to carry out the import. Unused allocations are not added to quotas for a subsequent period.

The names of importers to whom licences have been allocated are not made known to official bodies of exporting countries. They are published on the bulletin board of the Ministry of Trade and in its information bulletin, this being regarded as sufficient publicity for authorizations.

(d) The period allowed for submission of applications is normally twenty days from the date of publication of the decision opening the quota.

(e) There is no fixed length of time, the normal period being approximately one month. In the case of a global quota, the administration examines all applications in detail in order to be able to make an equitable and reasonable allocation.

(f) Once an import application has been accepted the importer must produce the actual licence within twenty days. Once this has been granted the goods can be given customs clearance immediately.

(g) Licences are granted exclusively by the Directorate-General for Tariff Policy and Imports of the Ministry of Trade, the only administrative body to which applications have to be submitted.

In some cases the Directorate-General can request a report from other departments (Ministry of Industry and Energy, Ministry of Agriculture, Fisheries and Food) for advice and information, on a purely consultative basis.

(h) Where licence applications cannot be granted in full, the allocation is made on the basis of criteria that vary according to the quota concerned.

Normally, account is taken of the nature and quality of the goods in relation with domestic market needs, the status and seniority of the importer and other criteria.

Applications are examined simultaneously, regardless of the date of their submission, provided this was within the calling period.

(i) In the case of goods neither liberalized nor subject to global quota, a licence is required which is granted on a discretionary basis by the administration in the light of domestic market needs.

(j) There are no cases in which the grant of an import licence is conditional on the grant of a permit by the exporting country.

7. (a) and (b) For goods falling within the free-import system, applications are accepted automatically. The period between submission and acceptance is very short, subject to the exception mentioned in paragraph 1(a).

(c) Applications can be submitted at any time.

(d) In the case of liberalized goods, acceptance is the exclusive responsibility of the Directorate-General of Tariff Policy and Imports of the Ministry of Trade.

8. Licence applications may be refused if not submitted in the proper form. In the case of non-liberalized goods, applications may also be refused on the grounds of objective criteria regarding the commercial status of applicants as laid down by the Ministry of Trade.

If an application is refused, the applicant is informed and the reasons for refusal are given. The applicant can appeal against the refusal in accordance with the administration procedure legislation.

ELIGIBILITY OF IMPORTERS TO APPLY FOR LICENCES

9. There is no register of importers. Anyone may apply for an import licence, subject to the following:

- Non-liberalized goods may be imported in some instances only by legal representatives of foreign producers or by Spanish producers (this is the case in regard to imports of component elements for new equipment).
- Goods subject to the State-trading system can be authorized for import by private individuals (see paragraph 1(d)).

DOCUMENTATIONAL AND OTHER REQUIREMENTS FOR LICENCE APPLICATIONS

10. Licence applications must contain the following particulars: name and address of the importer; name and address of the supplier; country of origin and exporting country of the goods; time-limit for payment and form of payment; customs office; delivery terms; customs tariff heading; description of the goods; weight and quantity; f.o.b. value; freight; insurance; c.i.f. value.

The documents to be produced with the licence vary according to the goods. In all instances, the Administration reserves the right to verify the accuracy of the particulars given in the application.

11. At the time of customs clearance, a certificate of origin of the goods must be produced.

12. A fee of 0.2 per cent of the value is charged for processing licence applications.

13. There is no prior deposit.

CONDITIONS OF LICENSING

14. The normal period of validity of a licence is six months; it can be extended subject to a request for rectification.

15. There is no penalty for non-utilization of a licence.

16. Applications and licences are administrative authorizations and, accordingly, are not transferable by their holders.

17. There are no other conditions.

OTHER FORMALITIES

18. There are no other administrative formalities.

19. Possession of a declaration or a licence gives entitlement to make payments in foreign exchange. The latter is supplied by the authorized bank which, at a later stage, communicates to the Directorate-General for External Transactions the amount of foreign exchange issued and the declaration or licence to which it refers.