

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/5640/Add.22

18 September 1985

Limited Distribution

Original: English

## 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. Section I of the present document, on Controlled Substances, contains a modification of replies to questions 2 and 9 of the questionnaire (see document L/5640/Add.5, page 1 and page 4). Section II, on Sugar, contains new information on the voluntary certificate of eligibility system for imports of raw and refined sugar from countries participating in the system, and on the import certificate system for specialty sugar. In addition Section II updates and revises information appearing in document L/5640/Add.5 (pages 5-9) on import licences for quota-exempt sugar. Section III corrects and revises information appearing in L/5131 on certain dairy products, plants and plant products, and on animals and animal products.

#### I. Controlled substances

Any firm wishing to engage in the commercial importation of controlled substances must first obtain a registration as an importer from the Drug Enforcement Administration. This registration specifies the substances which the firm is authorized to import. A registered importer must (a) apply for and receive an import permit for each specific importation of the following: (1) all substances in Schedule I or II and all narcotic substances in Schedules III, IV or V and (2) any non-narcotic substance in Schedule III, which has been specifically designated as requiring an import permit, or (b) submit a specific import declaration for each importation of any controlled substance, not included in (1) at least fifteen days prior to the date of importation.<sup>1</sup>

<sup>1</sup>A list of these substances is available for consultation in the secretariat room 1059.

Other than crude opium, poppy straw, concentrate of poppy straw and coca leaf, no Schedule I or II substance and no narcotic substances in Schedules III, IV or V may be imported unless the Attorney General finds that (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, or (c) that the substance is being imported in limited quantities and will be used exclusively for scientific or research purposes.

Only those individuals and firms which are properly registered by the Drug Enforcement Administration may engage in the importation of controlled substances. Registered importers are the only entities which can import controlled substances for commercial purposes. These firms are inspected to insure that they satisfy certain security, record keeping and other requirements and must pay an annual registration fee of \$125.00.

Registered researchers and analytical laboratories are authorized to import small quantities of controlled substances for scientific purposes and pay an annual registration fee of \$20.00.

## II. Sugar

1. Presidential Proclamation 4941 of 5 May 1982 amended Headnote 3 of sub-part A part 10 to Schedule I of the Tariff Schedules of the United States (TSUS) to modify import quotas for raw and refined sugar on a country-by-country basis. Regulations were issued for a voluntary certificate of eligibility system for imported sugar from quota countries on 11 August 1982. The certificate system is separate and distinct from

certificates are issued for those sugars in TSUS 155.20 and 155.30 which: (1) are not commercially produced in the United States nor are readily available from domestic sources; (2) are the product of countries with no base sugar quota allocation; and (3) require no further processing. Licences are issued for quota-exempt sugars in TSUS 155.20 and 155.30 which are: (1) used for the production, other than by distillation, of polyhydric alcohol except that used as a substitute for sugar in human food, or (2) re-exported in refined form or in sugar-containing products.

3. The certificate of eligibility system applies to those countries that agree to participate in the system and from which sugar is imported under quotas as authorized by Headnote 3 of sub-part A part 10 to Schedule I of the Tariff Schedules of the United States (TSUS).

Certificates for imports of specialty sugars apply to those countries in Headnote 3 (c) (ii) of Schedule I of the TSUS. Licences for quota-exempt sugar are applicable to imports of sugar from all countries.

4. The purpose of the certificates of eligibility is to facilitate reasonable and orderly access to the United States sugar market for those countries to which a quota allocation has been given and to promote orderly marketing and distribution of sugar within the United States. The purpose of the quota for specialty sugar is to meet the extremely limited demand for this product. Licences for quota-exempt sugar are intended to increase the utilization of excess domestic capacity and improve employment in refining and related industries.

5. The certificates of eligibility are issued under 15 CFR 201.12. The certificates for specialty sugar are issued pursuant to 15 CFR Part 201.3. The regulations governing licences for the importation of sugar exempt from quota are under 7 CFR 6.100-6.112, 7 CFR 6.200-6.214 and 7 CFR 6.120-6.130. Authority exists to suspend each of these systems whenever it is determined that such action is appropriate. Notice of such suspension shall be published in the Federal Register.

6. (a) Information on the allocation of quotas, and on the certificates and licensing system is published in the Federal Register, press releases from the Office of the United States Trade Representative, and United States Department of Agriculture reports. In addition, the allocation of quotas on a country-by-country basis is also published under Headnote 3 sub-part A part 10 Schedule I of the TSUS.
- (b) The sugar import quota for raw and refined sugar is determined annually for a period of time as determined by the Secretary of Agriculture and announced by the fifteenth day of the month preceding the calendar quarter for which the quota will be in effect. The annual quota for specialty sugars of 2,000 short

tons is announced at the same time as the quota for raw and refined sugar. Certificates of quota eligibility are issued by the Secretary of Agriculture to the participating countries to coincide with the applicable quota year. Certificates for importing specialty sugars are likewise issued to imports to coincide with the quota year. Licences issued for quota-exempt sugar are not subject to the quota year limitations.

- (c) Certificates of eligibility are issued by the Secretary of Agriculture to participating foreign countries. The foreign country in turn executes and issues these certificates to a shipper or consignee of a cargo of sugar destined for the United States. For those participating countries, sugar is allowed entry only if a valid and properly executed certificate of eligibility is presented at time of entry to the appropriate customs official.

Certificates for specialty sugar are issued to importers by the Foreign Agricultural Service (United States Department of Agriculture) if sufficient evidence has been provided to make a reasonable determination that the sugar fits the definition of specialty sugar. Importers must apply for certificates for specialty sugar each quota year and any unused portion of a country's specialty sugar quota may not be carried over into the next quota year. The certificate is presented to the appropriate customs official at the time of entry.

Licences for sugar imports exempt from quotas are issued to United States sugar refiners, United States manufacturers using refined sugar for re-export in sugar-containing products, and United States manufacturers of polyhydric alcohol. A summary of transactions form (balance sheet showing charges and credits under the licence) must be presented to the appropriate customs official at the time of entry. For quota-exempt sugar used in the production of polyhydric alcohol, a licence is presented to the customs official at time of entry.

- (d) Not applicable
- (e) Not applicable
- (f) Not applicable
- (g) The United States Department of Agriculture administers the licensing and certificate systems.
- (h) The certifying authority designated by the participating country issues certificates of eligibility to the shipper or consignee of

sugar. The maximum quantity of sugar to be shipped with each certificate shall not exceed 10,000 short tons.

Specialty sugar certificates are issued to importers on a first-come first-served basis. Subject to quota availability, an unlimited number of shipments may enter under a given certificate and the certificate may cover more than one type of specialty sugar. Issuance of a certificate does not guarantee entry if the specialty sugar quota is already filled.

The maximum quantity of sugar that can be entered under a quota exempt licence for re-export in refined form cannot exceed 50,000 short tons at any time. As sugar is re-exported, however, a quantitative amount may be imported equal to the amount that has been re-exported. Licences for quota exempt sugar for the production of polyhydric alcohol are issued to manufacturers of polyhydric alcohol from sugar for a period of up to one year. The maximum amount of sugar which may be entered under the licence cannot exceed the anticipated requirements of the manufacturer.

Two types of licences are issued to manufacturers for importing quota-exempt sugar to be used for re-export in sugar containing products: (1) import licences for the importation of quota-exempt raw sugar for refining by one or more United States refiners and/or; (2) user licences for the transfer of refined sugar to a manufacturer from one or more United States refiners. The maximum amount which may be imported under an import licence is 10,700 short tons of sugar, raw value basis, and a maximum of 10,000 short tons of sugar, refined weight basis, for a user licence.

- (i) Not applicable
- (j) Not applicable
- (k) Licences for quota-exempt sugar are issued only if: (1) a quantity of sugar equal to the sugar imported is re-exported in refined form, or (2) a quantity of sugar equal to the sugar imported or transferred is re-exported in a sugar-containing product.

7. Not applicable

8. There are no provisions for refusing to issue certificates of eligibility, certificates for importing specialty sugars, or licences for importing quota exempt sugar other than failure to meet the ordinary criteria.

9. All persons, firms and institutions are eligible to apply for certificates for specialty sugars. Only United States sugar refiners, manufacturers of sugar-containing products and United States manufacturers of polyhydric alcohol can apply for licences to import quota-exempt sugar. Import agents may be employed to import or export quota-exempt sugar. There is no registration fee or published list of authorized importers.

10. Each certificate of eligibility must be numbered and identified by the foreign country and must provide the following information: (1) quantity eligible to be entered; (2) name of shipper; (3) name of vessel; and (4) port of loading. The following information may also be included (if known): the name and address of consignee; expected date of departure; expected date of arrival in the United States; an expected port(s) of arrival in the United States.

Applicants for licences to import sugar for re-export in refined form must apply in writing and must include: (1) name and address of the applicant; (2) licence amount requested (not to exceed 50,000 short tons); (3) TSUS number and description of sugar to be imported; (4) name of firm that will establish a performance bond in favour of the United States Government on behalf of applicant, if such firm is not the applicant; (5) name of anticipated refinery, and (6) anticipated date of entry of sugar and export of refined sugar (if known). The licence holder shall submit a certified statement of the polarization and weight of the imported sugar to be charged to the licence.

Applicants for a licence to import sugar for re-export in sugar-containing products must apply in writing and must include: (1) name and address of the applicant; licence amount requested (not to exceed 10,000 short tons), (2) refined weight for a user licence or 10,700 short tons, raw value for an import licence); (3) type of licence requested (import and/or use licence); TSUS number and description of sugar to be imported or transferred; (4) name of firm (if known) that will establish a performance bond in favour of the United States Government on behalf of the applicant; if application is for a user licence, (5) the names(s) of anticipated refiner(s) from which processed non-quota sugar will be received (if known). If the application is for an import licence, a certification of the existence of the valid tolling contract(s), including name(s) of refiner(s) by which non-quota sugar will be processed. However, the Licensing Authority reserves the right to inspect a copy of such a tolling contract upon request; and a (6) description of sugar-containing products to be exported (if known) and estimated sugar content of such products.

Only manufacturers of polyhydric alcohol are eligible to receive an import licence. Application for an import licence must contain the following: (1) the name and address of the manufacturers; (2) statement of anticipated requirements of the manufacturer for sugar to be used in the production of polyhydric alcohol; (3) anticipated amount of sugar to be imported during the specified effective period; (4) the

effective period of the import licence (not to exceed one year); and (5) certification that the manufacturer shall use the quantity of sugar imported solely for the production of polyhydric alcohol, except polyhydric alcohols imported for use as a substitute for sugar in human food consumption.

Applications for certificates to import specialty sugar(s) must be in writing and must provide the following: (1) name and address of applicant; (2) anticipated quantity of imports; (3) the appropriate five-digit TSUS number; (4) a description of the specialty sugar(s) expected to be imported during the period of the certificate; (5) sufficient evidence that it is a specialty sugar(s); (6) anticipated consumers (if known) at time of application; and (7) anticipated date of entry (if known).

11. Quota sugar entered from those countries that agree to participate in the certificate system must be accompanied by a certificate which has been signed by the certifying authority in the country of origin and affixed with a seal or form of authentication.

A certificate issued by the Department of Agriculture authorizing the importation of specialty sugar(s) must be presented to the appropriate customs official at the time of entry.

Licences issued by the Department of Agriculture for entry of sugar exempt from quota for re-export in refined form, for re-export in sugar-containing products, or for use in the production of polyhydric alcohol must be presented to the appropriate customs official at the time of entry.

12. Not applicable

13. To enter the United States, sugar exempt from quota and entering under licence must meet all the applicable customs bond requirements (19 CFR Parts 113, 141-144) and be subject to a performance bond, except no bond is required for the quantity of any sugar entered for which an equal quantity of sugar has been exported prior to the date of entry or transfer of the sugar, and which has been credited to the licence. A bond may cover imports or transfers made either during the period specified in the bond (term bond) or for a specified import or transfer (single entry bond). Only the refiner or manufacturer who imports the sugar or who will use the sugar may be the principal on a bond to cover such sugar to be imported or transferred. The amount of bond for sugar entering exempt from quota shall be 1.5 times the difference between the Market Stabilization Price (MSP) established pursuant to Presidential Proclamation 4940 of 5 May 1982, and the world spot No. 11 price as reported by the New York Coffee, Sugar and Cocoa Exchange. In the case of a single entry/transfer bond, the difference between the number 11 price and the MSP shall be computed as of the last market day before the execution of the bond. In the case of a term bond, the No. 11 and MSP shall be computed quarterly based on the average difference between these prices for the twenty consecutive market days preceding the twentieth day of the calendar quarter for which the bond is in effect.

The appropriate customs official will release the obligation under bond for sugar imported by and amount computed in the preceding manner for a corresponding quantity of sugar credited to the licence as having been exported in refined form or in a sugar-containing product or transferred in refined form to a licensed manufacturer participating in the sugar-containing product re-export programme. The Department of Agriculture releases the obligation under bond for sugar transferred when a corresponding quantity of sugar is re-exported in sugar-containing products.

Customs releases the obligation under bond for sugar used in the production of polyhydric alcohol when a certificate of use has been filed within one month after the use of the sugar indicating that the sugar was used for the production of polyhydric alcohol.

Under the re-export programme for refined sugar, if the licence holder fails to export (or transfer to a licence holder under the sugar-containing product re-export programme) a quantity of sugar equal to the amount of sugar imported under licence within three months of the date of entry, payment shall be made to the United States under the bond equal to the amount of sugar not offset by exportation. Under the re-export programme for sugar-containing products, if a licence holder fails to export within twenty-one months of the date of entry or within eighteen months of the date of a licence transfer, payment shall be made equal to the monetary amount of sugar not offset by timely export. Failure to use the total amount of sugar for production of polyhydric alcohol production within 180 days of entry will require payment covering the quantity of sugar not used for the stated purpose.

14. The certificates of eligibility are valid only for the quota period for which they are issued. Under the re-export programmes, licences are valid for an indefinite period of time and are subject to only the quantitative limitation as mentioned above. The licences issued under these programmes will expire upon written notice to the licence holders by the Licencing Authority. A certificate for specialty sugar is valid only for the quota year in which it is issued.

15. There is no penalty for non-utilization.

16. Only licences issued for re-exporting sugar in refined form can be transferred with the written permission of the Department of Agriculture provided that the refiner does not have a licence.

17. There are no other conditions attached to issuing certificates.

18. No other procedures are required.

19. Not applicable



III. Corrections and revisions to document L/5131

Certain Dairy Products

Paragraph 1: replace with the following:

Quotas are imposed by Presidential Proclamation on certain products whenever such imports are found to interfere or threaten to reduce agricultural price support or other programmes, or cause substantial reductions in the amount of such domestic products processed. Import licensing is used in administering the quotas for most of these products."

Page 4, paragraph 6(c): replace the last three sentences with the following:

"The amounts voluntarily surrendered are then reallocated to other eligible licensees. A list of names of licensed importers is mailed to all licensees each year. The list is available to others upon request."

Page 5, paragraph 6(g): replace "Import Group" with "Import Licensing Group".

Page 6, paragraphs 12-13: add as last sentence:

"As of 1 January 1986, a fee of \$60 per licence will be charged."

Plants and Plant Products

Page 2, paragraph 1: add to the outline:

"Permits are also required for the import, export or re-export of territorial plants that are on the endangered species list."

Page 2, paragraph 2: add to the coverage:

"bags, bagging, brassware and wooden screens used to contain and transport plants."

Page 2, paragraph 5: add:

"The Endangered Species Act and the Convention on International Trade in Endangered Species."

Page 3, paragraph 10: add to the end of the sentence:

"... and in the import permit form for endangered plants."

Page 3, paragraph 12: add:

"There is a \$70 fee per permit for endangered plants."

Page 3, paragraph 14: add:

"The permit for endangered plants is valid for two years."

Animals and Animal Products

Page 8, paragraph 13: revise as follows:

"Reservation fees for quarantine space are required for live animals and birds. The amount of the fee varies according to the animal or bird."