

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

RESTRICTED

**L/5640/Add.21/Rev.1/Suppl.1
12 November 1985**

Limited Distribution

Original: English/French

REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

European Economic Community and Member States

Supplement

Denmark and Italy

The following notification has been received from the delegation of the European Economic Community in response to the questionnaire on import licensing procedures annexed to document L/5640/Rev.1. The present document is a supplement to L/5640/Add.21/Rev.1 of 5 November 1985 which contains updated information on import licensing procedures of the European Economic Community and seven of its member States.

Denmark

Outline of systems

Part I

Procedures in connection with industrial and other commodities restricted to serve economical and quantitative purposes.

1. Different licensing systems apply under
 - (a) Community regulations outlining special licensing systems for certain products (e.g. textiles under the MFA).
 - (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. 547 of 27 October 1980.

Since most goods covered by the executive order have been taken over by EEC regulations according to the common trade policy, the importance of the executive order has diminished (the superiority of EEC law to national law within the EEC) and left only four items of pure national restrictions (potatoes, tomatoes, ethanol and gold).

Similarly, quotas of restricted goods are being fixed in EEC regulations and published in the Official Journal of the EEC.

For the products mentioned under (a) as well as (b), an executive order (No. 525 of 12 October 1984) has been published in addition to the regulations mentioned. This executive order contains among other things rules for the national administration and their publication.

The replies to the questionnaire, however, refer only to the system mentioned under (b), since the systems mentioned under (a) contain their own rules for licensing, which are equal in all member-

states of the EEC and, eo ipso, not special Danish rules.

According to Section 1 of executive order No. 376 of 21 August 1979, 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. This principle is maintained in the EEC regulations mentioned under (b).

Purposes and coverage of the licensing

2. and 3. These exceptions are specified by commodities and by countries in annexes to the EEC regulations as well as in an annex to executive order No. 376. The EEC regulations divide countries into State-trading countries and other third countries in different regulations, whereas executive order No. 376 uses 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 Common Customs Tariff 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. However, applications are granted in exceptional circumstances.

4. Licences are for the time being normally issued for quantities. In some cases, however, they are 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. This, however, has not been the case in the last six or seven 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. 285 of 6 June 1984. 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. Re-introduction of import restrictions is subject to approval by a committee appointed by the Folketing (Parliament).

The legislative basis of executive order No. 525 of 12 October 1984 is act No. 109 of 28 March 1984, which authorizes the Minister of Industry to lay down the rules necessary for the proper administration of the regulations of the EEC as well as the ECSC.

This law as well as the executive order issued in accordance with it contain only administrative rules in addition to EEC regulations and it does not authorize any designation of products to be subjected to licensing to administrative discretion.

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 will be issued when need arises - normally about eight 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 (e.g. some embassies and consulates).

(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 5 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) Licenses are issued in accordance with EEC regulations.

(k) Yes, but such licences are not set 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 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.

A decision taken by the Licensing Office in pursuance of executive order No. 525 (Act No. 109) may be referred to the Minister of Industry and subsequently to the law courts.

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 9 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, provided that the importer to whom a licence is transferred buys a corresponding amount of commodities from 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. "Normal commercial practice" is understood to mean commercial credits of one or two years, or five years for larger capital goods. The notice of payment to be filed is a separate document designed for statistical purposes.

Part II

Procedures in connection with other commodities to serve health, quality, and wild animals and plants protection purposes.

Health purposes

Narcotic drugs and psychotropic substances: No changes.

Quality purposes

A new executive order (No. 104 of 22 March 1984) has come into effect as from 15 April 1984. It contains rules of landing and storage of living oysters and, a priori, the rules for notification to the authorities before importation.

After notification a special permit to import the goods is issued by the Ministry of Fishery.

Wild animals and plants protection purposes

The Washington Convention of 3 March, 1973 took effect on 1 July, 1975, by which date 10 countries had ratified it. In Denmark, where the convention took effect on 24 October, 1977, administration to-day is carried out pursuant to Executive Order of the Ministry of Environment no.23 of 25 January 1984 concerning the convention on international trade in wild animals and plants threatened by extinction (the Washington Convention). The Executive Order has been made in connection with the coming into force of Council Regulation (EEC) no. 3626/82 of 3 December, 1982 (as subsequently amended) on the carrying into effect in the Community of the convention on international trade in wild animals and plants threatened by extinction and of Commission Regulation (EEC) no. 3418/83 of 28 November, 1983. The two Regulations are attached to the above-mentioned Executive Order.

With regard to import and export from and to third countries, the following applies:

As provided by Section 3 of the above-mentioned Executive

Order, import or export of the affected animals and plants as well as parts and products thereof requires previous permission. Permits are issued by the Government Ground Protection Service as regards plants and parts and products of these, and by the National Agency for the Protection of Nature, Monuments, and Sites as regards animals and parts and products of these.

As regards animals originating in Greenland and exported directly from there to a country other than Denmark, permits are issued by the local Government of Greenland.

Application for import permits for animals is made by filling in a form to be sent to the National Agency for the Protection of Nature, Monuments, and Sites together with an export licence from the exporting country.

Application for export permits for animals is made by filling in the above-mentioned permit form. This must be sent to the NAGPNMS together with documentation of legal importation into the country, breeding or legal possession.

The Ministry for Greenland and local Government of Greenland have till now used the same type of form. A new form is expected to be drawn up after the secession of Greenland from the EEC.

Permits are issued free of charge.

In case of importation, the importer presents an import permit to the Customs authorities at the customs clearance. The Customs authorities collect and stamp the permit, which is returned to the National Agency etc. A copy of the permit is handed over to the importer.

In case of exportation, the exporter presents an export permit. The Customs authorities stamp the form, upon which the original goes with the article to the receiving country, while one copy is collec-

ted and returned to the National Agency etc. and the other is handed over to the exporter.

On this basis, the National Agency etc. works out the statistics which member countries are obliged to keep pursuant to Article VII, subsections 6-8 of the Convention. In 1984, 312 export permits and 629 import permits for animals were issued.

Administration concerning plants is, as previously mentioned, undertaken by the GGPS.

Permission to export wild plants is not given.

Permission to import wild plants has only been given in 10-20 cases so far.

Moreover, as regards artificially reproduced species of plants, a special arrangement has been introduced to the effect that plant health certificates replace permits issued as provided by the Executive Order of the Ministry of Environment.

As regards circulation inside the Community of goods comprehended by the Washington Convention, a special CITES-certificate or the importer's copy of the import permit is used, cf. Article 29 in the above-mentioned Commission Regulation (EEC) No. 3418/83 of 28 November, 1983.

ITALY

General Replies

Reply to question 1

The following import systems are applied:

(a) Licensing (or rather ministerial authorization) for goods covered by Annex I to the Ministerial Decree of 6 May 1976 and grouped according to the indication "A" shown opposite the area corresponding to the country of origin of the goods to be imported.

The above-mentioned Ministerial Decree lays down the list of goods and, in Appendix I the countries falling within the five areas.

(b) Automatic licensing for the import of goods released for free circulation in any EEC country, provided that in respect of those goods there has been no recourse to Article 115 of the Rome Treaty nor to the ECSC and EEC provisions designed to prevent deflection of trade. The automatic licensing system is necessary for statistical purposes. Because of the time normally needed for establishing statistics, a licensing system is essential.

(c) The customs control system (first come, first served). The administration empowers the customs office to authorize the various applicants to import; the only criterion used in processing customs clearance applications is the date of their presentation and the need not to exceed quota limits. No formalities are required and licences are issued immediately.

(d) The statistical control system by means of an import declaration, for purposes of control at national or Community level.

Reply to question 8

- (i) Applications are never refused because of failure to meet the ordinary criteria.
- (ii) The reasons for any refusal of applications are always given to the parties concerned.
- (iii) The latter always have the right of appeal to the regional administrative courts (administrative legal institutions).

Reply to question 10

In addition to normal information regarding identification of the goods to be imported and of the operator, applicants are required to indicate the customs office at which clearance will take place.

The following documents must be supplied with the application:

The pro forma invoice in certain cases, the document provided for in restraint arrangements concluded with exporting countries, and the free circulation certificate in the case of automatic licensing (form T2).

Reply to question 11

The documents required for definitive import of goods are, as relevant: the import licence, import declaration or the import certificates required under the common agricultural regulations.

Reply to question 12

In order to obtain the import licence, the applicant does not pay any fee but must present the application on stamped paper.

Reply to question 13

No prior deposit is required in order to obtain an import licence.

Reply to question 14

An import licence is normally valid for six months from the date of issue; this period may be shorter in certain cases. Extensions are possible upon request by the parties concerned.

Reply to question 15

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

Reply to question 16

Licences are transferable only in the event that the licence-holder has sold the goods to another importer prior to customs clearance.

Reply to question 18

Normally no other administrative procedures are required prior to issue of a licence. Visas and endorsements are required only in exceptional cases.

Reply to question 19

Foreign exchange is automatically provided by the banking authorities to applicants in respect of goods to be imported. In order to obtain foreign exchange, the importer must have the legal document required for customs clearance of the goods. Foreign exchange is always available for import purposes. There are no other formalities for obtaining foreign exchange.

ANNEX I

LICENSING FOR ADMINISTERING QUANTITATIVE RESTRICTIONS

Licensing applied for the purpose of administering quantitative import restrictions

Reply to questions 2 and 3

For the administration of import restrictions, the following systems are applied:

- Ministerial licensing.
- Customs control (imports authorized directly by the customs within the limits of the quota allocated to them and according to the order of priority resulting from presentation of customs clearance applications).

Products subject to import restrictions include certain products originating in State-trading countries and in Japan, as well as textiles from various origins which are covered by restraint agreements concluded with the exporting countries.

Reply to question 5

Licensing is always established under provisions consistent with the Community regulations (Regulation (EEC) 288/82 and others).

Reply to question 6

(a) Information concerning allocation of quotas is always communicated to the parties concerned by Ministerial Decrees published in the Official Gazette or by ministerial circulars addressed to quasi-State organizations and professional associations. In addition this information is published in the weekly bulletin of the National Foreign Trade Institute.

The overall amount of quotas is published, as is the amount by country where relevant.

(b) (i) Quotas are generally open for application by importers for a period of one year.

(ii) Licences are normally valid for six months. This period is extended by the administration without difficulty provided the parties concerned submit an application for extension on stamped paper.

(iii) An application for extension on stamped paper is always necessary.

- (c) (i) Licences are not reserved exclusively for domestic producers; they may also be issued to foreign producers provided the latter have a representative resident in Italy.
- (ii) The administration does not take any direct steps to ensure that licences allocated are actually used.
- (iii) Unused quotas are normally added to the quotas established for the ensuing year.
- (iv) The names of importers to whom import licences have been allocated are not published, but exporting countries can request that information from the Ministry of Foreign Trade.
- (d) Normally, licence applications are submitted within thirty days following publication of the Ministerial Decree and of the ministerial circular fixing the amount of the quota and the criteria that the administration will apply in making its preliminary allocation among the various applicants.
- (g) Licence applications are examined by the Ministry of Foreign Trade, Directorate-General for Imports and Exports, in certain cases after an advisory opinion has been obtained from an appropriate inter-ministerial committee. Accordingly, the applicant has to approach only one body.
- (h) In cases where the demand for licences cannot be fully satisfied, they are generally allocated on a preliminary basis according to predetermined criteria. There is no maximum amount for allocation per applicant. Provision is made for new importers. Applications are examined as and when they are received in the appropriate office.
- (i) Import licences are required in the case of products covered by bilateral and/or Community quotas or by restraint agreements concluded with exporting countries.
- (j) Not applicable.
- (k) The issue of licences is not conditional on re-export of the goods except in cases where the goods are imported under the temporary admission system.

Reply to question 9

The conditions that importers must fulfil in order to be eligible to apply for licences are: residence in Italy and an indication of the registration number with the Chamber of Commerce, Industry, Crafts and Agriculture. However, una tantum operations are also permitted on the part of occasional operators.

17. (a) There are no other conditions attached to the issue of licences.

ANNEX II

AUTOMATIC LICENSING

Licensing not applied for the purpose of administering import restrictions.

Reply to questions 2 and 3

The automatic licence, import declaration, ICE visa (National Foreign Trade Institute) and agricultural certificates are not used as procedures designed to administer import restrictions. They are merely a means of surveillance and immediate collection of statistics.

The above systems apply to iron and steel products, chemicals, textiles and agricultural products originating in and coming from various countries.

Reply to question 4

The purpose of the automatic licensing systems mentioned above is to exercise surveillance over quantities imported.

Reply to question 5

Automatic licensing is introduced and modified by Community regulations and national legislation.

The designation of products to be subjected to any of the above-mentioned systems is never left to administrative discretion.

Such designation must always take account of Regulation (EEC) 288/82 as well as of national legislation.

Reply to question 7

(a) The licence application can be submitted long before the date on which the operator intends to seek customs clearance of the goods. Examination of licence applications normally takes four to five days.

(b) In case of urgency, it can be issued in one day.

(c) Licence applications can be submitted without any limitation as to the period of the year during which they may be presented or imports may be carried out.

(d) Licence applications are examined by a single body which is located in the Ministry of Foreign Trade.

Reply to question 17(b)

There are no other conditions attached to the issue of licences.