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REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

MEXICO

The following notification has been received from the Delegation of Mexico in response to the Questionnaire on Import Licensing Procedures.¹

QUESTIONNAIRE ON THE IMPORT LICENSING PROCEDURE OF MEXICO

1. Give a brief description of each licensing system as a whole and, with respect to each, reply to the following questions as relevant, placing all of the material with respect to a given system in sequence together, and using cross-references as appropriate when elements which have already been described are also present in another system.

Reply

The Customs Law establishes that goods may be imported into the country under the following régimes:

- definitive importation;
- temporary importation;
 - (a) to return abroad in the same state, and
 - (b) for working, processing or repair.
- industrial warehousing;
- importation to replenish stocks;
- fiscal warehousing;
- transit of merchandise.

¹Annexed to L/5640/Rev.3

The relevant customs régimes are definitive importation and temporary importation. The other régimes, as in any other country, cover marginal operations on which prior import licensing policy has no effect whatsoever and which are only subject to import controls by the customs authorities; consequently, only the relevant régimes are described below.

The Law Implementing Article 131 of the Political Constitution of the United Mexican States concerning Foreign Trade (Foreign Trade Law) provides that the import permit requirement applies only to definitive and temporary importation, and that this power shall be exercised exclusively by the Ministry of Trade and Industrial Development.

System of definitive importation

The General Import Tariff comprises 8,219 codified sub-divisions, of which only 638 require prior permits* and 13 are classified as prohibited for import. It should be pointed out that in Mexican legislation the term prior permit is used as a synonym for import licence.

Applications for definitive importation are processed by the Ministry of Trade and Industrial Development (at headquarters in the Federal District or by its offices in the rest of the country) and there are no differences in the process for each category of product. There is a single form for the application and also for the import permit; these forms are contained in Circular No. 5 concerning Import and Export Permits, published in the Official Gazette of the Federation on 31 January 1985.

The importation of the products included in the thirteen sub-divisions mentioned above is prohibited on health grounds.

System of temporary importation

(a) Temporary importation to return abroad in the same state

These operations do not require a prior permit except in the case of the following goods:

- (i) apparatus and other equipment necessary for mining and rural exports, land surveying and measurement, agricultural work, tracing and construction of communication routes and scientific research work; and
- (ii) machinery and equipment to be used for profit-making purposes.

* For all cases marked with an asterisk consult the annexed list of documents.

Prior permits are granted for a period of two years, as specified in the Customs Law, provided the goods in question are not produced in Mexico and their temporary importation into the country is justified. When temporary importation is refused, definitive importation is possible, by fulfilling the necessary requirements.

(b) Temporary importation of inputs for working, processing or repair for export

Here again, inputs incorporated in products for export are exempt from the prior permit requirement, except in the case of nineteen tariff sub-divisions .

Broadly speaking, this exceptional prior permit requirement for temporary imports was established for these few products because they are not usual in this type of export operation.

In view of the limited application of prior permits in the case of temporary imports, and the flexibility with which they are granted, no further comments will be made in this document concerning this type of import. Hence, we shall refer below solely to definitive imports, for which there is only one system of permits administered by the Ministry of Trade and Industrial Development. This single system has two modalities: importation with and without quotas. It should be pointed out that import quotas for goods are established by decision of the Ministry of Trade and Industrial Development, published in the Official Gazette of the Federation.

2. Identify each licensing system maintained and state what products, appropriately grouped, are covered.

Reply

As mentioned in reply No. 1, there is only one system of definitive import permits, as described above.

3. The system applies to goods originating and coming from which countries?

Reply

The system applies to all countries.

4. Is the licensing intended to restrict the quantity or value of the imports, and if not, what are its purposes? Have alternative methods of accomplishing the purposes been considered and if so which? Why have they not been adopted?

Reply

The general rule is yes, the purpose is to restrict partly or totally the quantity or value of imports. The exceptions to this rule are:

1. For certain products, the objective is to channel imports through the sole state marketing channels; this is specifically the case of powdered milk and newsprint, imports of which are reserved for the National Mass Staples Company and the Paper Producing and Importing Company, respectively.
2. Imports of arms, ammunition, explosives and other materials of special interest to national security are restricted through the prior permit system in order to ensure that they are destined for specific purposes laid down by the Federal Executive.
3. Certain industrial branches to which the Federal Executive attaches priority receive preferential tariff treatment for their imports of parts and components to be incorporated in their products, which is granted by means of the so-called Rule 8 sub-divisions. In most cases, these sub-divisions have an ad valorem rate of 10 per cent. As part of the administrative procedure for this régime, prior permits are required for imports of this kind, but the purpose is not to restrict the quantity or value of such imports.

In view of the nature of the markets for the products subject to prior permits, the use of some other type of protective instrument to restrict imports of such products is not feasible. However, the list of goods subject to the prior permit system is constantly being reviewed in order gradually to replace permits by tariffs as far as possible.

5. Cite the law, regulation and/or administrative order under which the licensing is maintained. Is the licensing statutorily required? Does the legislation leave designation of products to be subjected to licensing or administrative discretion? Is it possible for the government (or the executive branch) to abolish the system without legislative approval?

Reply

The legal basis for the licensing is the Law implementing Article 131 of the Political Constitution of the United Mexican States concerning Foreign Trade which, as its title indicates, implements the constitutional article relating to the power to restrict and regulate imports, exports and the transit of products, articles and effects. There is also the Regulation Governing Import or Export Permits for Goods Subject to Restriction, which, although published before the Law, remains in force by virtue of Transitional Article 3 of the Law.

The administrative provisions which are applied to ease the processing of applications, provide security to applicants and ensure transparency in the administration of permits are as follows:

- (a) General rules relating to the operation of import permits, published in the Official Gazette of 17 July 1984* ;
- (b) Circular No. 2 concerning import and export permits, relating to the correction of errors and omissions, published in the Official Gazette of 4 December 1984* ;
- (c) Circular No. 4 concerning import and export permits relating to the urgent importation of spare parts, published in the Official Gazette of 4 December 1984 .
- (d) Circular No. 5 concerning import and export permits relating to the single forms for import applications and permits, and instructions for filling in the application, published in the Official Gazette of 31 January 1985* ;
- (e) Decision exempting small-scale imports from the prior permit requirement, published in the Official Gazette of 17 April 1985* ;
- (f) Circular No. 6 concerning import and export permits relating to administrative petition for revue, published in the Official Gazette of 25 April 1985 ;
- (g) Decision authorizing increases in value, weight, volume or amount of import permits, published in the Official Gazette of 28 February 1986 ;
- (h) Decision concerning the processing of import permit applications for agricultural and forestry products, published in the Official Gazette of 27 June 1986 .

The import permit application process is obligatory by law, but only in the case of goods subject to the requirement, which as mentioned in reply No. 1, cover only 638 subdivisions of the General Import Tariff. However, in order to facilitate small-scale imports, prior permits are not required in the case of imports of goods not exceeding US\$ 100 in value.

Our legislation does leave the designation of products to be subjected to the prior permit requirement to the Federal Executive. The latter is given this power by the Law implementing Article 131 of the Political Constitution of the United Mexican States concerning foreign trade, under which regulations or restrictions may be established, which include the prior permit requirement.

Likewise, since the Executive has the power to determine what products are subjected to import licensing, it also has the power to exempt them from the requirement; these are viewed as two aspects of the same power.

6(a) Is information published, and where, concerning allocation of quotas and formalities of filing applications for licences? If not, how is it brought to the attention of possible importers? Of governments and export promotion bodies of exporting countries and their trade representative? Is the overall amount published? The amount allocated to goods from each country? The maximum amount allocated to each importer?

Reply

In the Decisions of the Ministry of Trade and Industrial Development which are published annually to furnish information on import quotas, the criteria are established for the distribution of the quotas and special formalities for the filing of applications are indicated. The procedures for the submission and processing of applications are the same for imports of merchandise the quantity or value of which is subjected to restriction and imports not governed by quantitative limitations; these procedures are set out in the Regulation Governing Import and Export Permits for Goods Subject to Restriction, and Circular No. 5 concerning import and export permits, published in the Official Gazette of the Federation on 14 September 1977 and 31 January 1985, respectively.

The Decisions do not indicate the quantity allocated to each country because, as mentioned earlier, there are no restrictions by countries. Maximum amounts for each importer are likewise not indicated.

6(b) How is the size of the quotas determined: on a yearly, six-monthly or quarterly basis? Are there cases where the size of quota is determined on a yearly basis but licences are issued for imports on a six-monthly or quarterly basis? In the latter case is it necessary for importers to apply for fresh licence on a six-monthly or quarterly basis?

Reply

The size of quotas is determined on a yearly basis, and permits are granted for six-monthly needs. Importers must submit import applications every six months. In the case of non-essential goods, importers must apply in the first two months of each six-month period.

6(c) Are licences allotted for certain goods partly or only to domestic producers of like goods? What steps are taken to ensure that licences allocated are actually used for imports? Are unused allocations added to quotas for a succeeding period? Are the names of importers to whom licences have been allocated made known to governments and export promotion bodies of exporting countries upon request? If not, for what reason? (Indicate products to which replies relate).

Reply

For specific products, import permits are allocated partly to domestic producers of like goods. This is the case of imports of wines and liquors, permits for which are granted partly to importers and partly to producers.

There are no provisions to ensure that licences are actually used. It is market needs that cause interested importers to apply for permits to cover imports that are not carried out.

Unused allocations under permits are not added to quotas for a succeeding period.

There is a microfiche system which provides public information every month on permits granted, classified by type of merchandise, and indicating, for each permit, the name of the importer, amount and value. These microfiches are available to the general public in the headquarters of the Ministry of Trade and Industrial Development and are also distributed to business institutions that so request. There is no other distribution of this information, but it is furnished to governments and export promotion bodies of exporting countries upon request.

6(d) From the time of announcing the opening of quotas, as indicated in (a) above, what is the period of time allowed for the submission of applications for licences?

Reply

In the case of non-essential goods, applications must be submitted in the first two months of each six-month period. For other types of products, the time-limit is open, and a subsequent application is submitted when the importer provides evidence that 70 per cent of the previously granted import permit has been used.

6(e) What are the minimum and maximum lengths of time for processing applications?

Reply

As a general rule, import permits are processed within a period of a minimum of three days and a maximum of ten working days.

6(f) How much time remains, at a minimum, between the granting of licences and the date of opening of the period of importation?

Reply

The general rule is that the date of issue of a permit is the same as the date on which it becomes valid, with the exception of some import permits for grains and oil seeds for mass consumption, where the date of

entry into validity is indicated as later than the date of issue, when there are circumstances connected with the seasonal nature of national production justifying this kind of deferred validity.

6(g) Is consideration of licence applications effected by a single administrative organ? Or must the application be passed on to other organs for visa note or approval? If so, which? Does the importer have to approach more than one administrative organ?

Reply

The importer only has to apply to the Ministry of Trade and Industrial Development (Directorate of Foreign Trade Services) to process import permits. The Ministry delivers the permit to the importer, who then submits it directly to the customs at the point of entry of the merchandise; in other words, the permit is not passed on to any other government organ.

6(h) If the demand for licences cannot be fully satisfied, on what basis is the allocation to applicants made? First come, first served? Past performance? Is there a maximum amount to be allocated per applicant and if so on what basis is it determined? What provision is made for new importers? Are applications examined simultaneously or on receipt?

Reply

The general rule followed in the allocation of permits is to consider imports by the applicants in previous periods.

There are no maximum amounts for the allocation of permits to each applicant.

Administrative procedures have been established to ensure that the allocation of quotas among importers should be as fair, equitable and transparent as possible, in accordance with the needs of each importer. The application of these quotas is carried out in a non-discriminatory manner.

Applications are examined at the same time as they are received, with the exception of applications for non-essential goods, which are received in the first two months of each six-month period and are all examined together.

6(i) In the case of bilateral quotas or export restraint arrangements, where export permits are issued by importing countries, are import licences also required? If so, are licences issued automatically?

Reply

The existence of export restraint arrangements does not give rise to the establishment of import permits.

6(j) In case where imports are allowed on the basis of export permits only, how is the importing country informed of the effect given by the exporting country to the understanding between the two countries?

Reply

In view of the reply to question 6(i), this question does not apply.

6(k) Are there products for which licences are issued on condition that goods should be exported and not sold in the domestic market?

Reply

There are none.

7(a) How far in advance of importation must application for a licence be made? Can licences be obtained within a shorter time-limit or for goods arriving at the port without a licence (for example, owing to inadvertency)?

Reply

Import permit applications must be submitted sufficiently in advance for them to be processed before importation is carried out. It is possible to process permits within a shorter time-limit than normal in order to import urgently essential products for keeping production plant in operation; the procedure concerned is set out in Circular No. 4 concerning import and export permits (urgent spare parts), published in the Official Gazette of 4 December 1984. This possibility also exists for unforeseen and urgent imports (including imports which have arrived at the port without a prior permit) of other types of goods, upon written request by the importer giving the grounds for his request, provided the authorities consider that there is no fraud on the part of the importer.

The Regulation Governing Import and Export Permits for Goods Subject to Restriction establishes in Article 18 that orders, contracts or negotiations concluded by importers prior to the obtention of an import permit cannot be invoked for the issuance of such permit.

7(b) Can a licence be granted immediately on request?

Reply

This question was answered in 7(a).

7(c) Are there any limitations as to the period of the year during which application for licence and/or importation may be made? If so, explain.

Reply

There are no such limitations.

7(d) Is consideration of licence applications effected by a single administrative organ? Or must application be passed on to other organs for visa, note or approval? If so, which? Does the importer have to approach more than one administrative organ?

Reply

The reply to this question is the same as in 6(g).

8. Under what circumstances may an application for a licence be refused other than failure to meet the ordinary criteria? Are the reasons for any refusal given to the applicant? Have applicants a right of appeal in the event of refusal to issue a licence, and if so what bodies and under what procedures?

Reply

Any refusal of a permit application is communicated to the person concerned by official letter setting out the grounds and justification for such refusal or, as the case may be, cancellation, owing to serious shortcomings in the submission of the application.

The Regulation Governing Import and Export Permits for Goods Subject to Restriction, published in the Official Gazette of 14 September 1977, provides that applicants who have been refused a permit have the right to appeal for review to the Ministry of Trade and Industrial Development, within eight working days following the date of notification, furnishing the information and evidence they consider relevant.

In the specific case of the refusal of a permit on account of the existence of domestic production, the application for review is examined in the conditions and following the procedures established by Circular No. 6 concerning import and export permits, published in the Official Gazette of 25 April 1985. This Circular establishes that the petition shall be submitted within fifteen working days, and the petitioner shall request in writing, from domestic manufacturers, the price of the product he wishes to import, as well as quality, delivery time, conditions of payment and guarantee; for their part, the domestic manufacturers must file a clear and precise answer in writing within ten days. With this evidence, the interested parties shall, if necessary, be convened for a technical meeting, and on the basis of the information furnished at that meeting the Ministry of Trade and Industrial Development will take the appropriate decision.

9. Are all persons, firms and institutions eligible to apply for licences:

- (a) Under restrictive licensing systems?
- (b) Under non-restrictive systems?

If not, is there a system of registration of persons or firms permitted to engage in importation? What persons or firms are eligible? Is there a registration fee? Is there a published list of authorized importers?

Reply

All persons, whether natural or legal (firms or institutions), are eligible to apply for import permits.

The Directorate-General of Customs of the Ministry of Finance and Public Credit keeps a National Register of importers and exporters. Any person who in the immediately previous calendar year has carried out at least six import or export operations must be included in the Register: there is no registration fee; the Register is for statistical purposes. The person registered must indicate his register code number in any document relating to imports or exports, including import permit applications. The Register is not published but may be consulted freely.

10. What information is required in applications? Submit a sample form. What documents is the importer required to supply with the application?

Reply

The information which must be given in import permit applications is indicated in Circular No. 5 concerning import and export permits. The Circular also contains the official forms on which applications must be submitted and indicates the documents which must accompany them. Broadly speaking, the information required is the essential minimum to:

- (a) identify the merchandise to be imported and the form in which it will be imported (country of origin, customs point of entry, etc.);
- (b) indicate the reasons for the import;
- (c) indicate the immediate background for the importation of such product; and
- (d) identify the person filing the application.

11. What documents are required on actual importation?

Reply

The Customs Law establishes that persons importing merchandise are obliged to submit an application (pedimento) to the customs, accompanied by:

- (a) the commercial invoice, if the value of the goods exceeds the amount specified in the general regulations established by the Ministry of Finance and Public Credit. The current amount is 15,000 pesos.
- (b) the bill of lading;
- (c) the import permit, if needed;
- (d) the proof of origin of the goods when negotiated by Mexico through LAIA (Latin American Integration Association) agreements.

12. Is there any licensing fee or administrative charge? If so, what is the amount of the fee or charge?

Reply

Fees are charged both for the processing of import permit applications and for the issuing of the actual import permits.

The legal basis for charging these fees is Article 6, Section 5, of the Federal Law on Fees.

The current amounts of the fees are:

1. For processing of import permit applications, 3,500 pesos; as of 1 March 1987, 7,200 pesos; as of 1 July 1987, 10,000.
2. For the issue of import permits, 0.6 per cent of the value of the merchandise.

13. Is there any deposit or advance payment requirement associated with the issue of licences? If so, state the amount or rate, whether it is refundable, the period of retention and the purpose of the requirement.

Reply

The issue of permits is not associated with any deposit or advance payment.

14. What is the period of validity of a licence? Can the validity of a licence be extended? How?

Reply

As a general rule, the period of validity of a permit is nine months, which may be extended for three months in accordance with the contents of the Decision of the Ministry of Trade and Industrial Development establishing the "General Rules relating to the operation of Import Permits", published in the Official Gazette of the Federation on 17 July 1984. The rules state that the customs are authorized to grant an automatic extension of thirty days if the goods arrive by sea or of seven days if they enter the country by some other means. To obtain the above-mentioned three-month extension, evidence must be submitted to the Ministry of Trade and Industrial Development that a letter of credit has been opened or firm orders placed.

Permits for goods subject to import quotas are granted with a validity of six months. Specific permits for grains and oil seeds for mass consumption are granted with a shorter period of validity, on grounds of seasonal needs.

15. Is there any penalty for the non-utilization of a licence?

Reply

No penalty is imposed for the total or partial non-utilization of a permit.

16. Are licences transferable between importers? If so, are any limitations or conditions attached to such transfer?

Reply

Import permits are non-transferable, in accordance with the provisions of Article 6 of the Regulation Governing Import and Export Permits Subject to Restriction.

17. Are any other conditions attached to the issue of a licence:

(a) for products subject to quantitative restriction?

(b) for products not subject to quantitative restriction?

Reply

There are no other conditions attached to the issue of import permits.

18. Are there any other administrative procedures, apart from import licensing and similar administrative procedures, required prior to importation?

Reply

No, except in the case of imports made by public sector agencies and entities in purchases of foreign capital goods and engineering industry goods of a value exceeding US\$ 50,000.

Such agencies and entities must, before making commitments for the purchase of foreign goods, obtain permission (called prior authorization) from the Ministry of Trade and Industrial Development both for direct imports and for purchases of such goods within the country. Such authorization is granted in a general and automatic manner in the case of purchases of merchandise not subject to the import permit requirement.

19. Is foreign exchange automatically provided by the banking authorities for goods to be imported? Is a licence required as a condition to obtaining foreign exchange? Is foreign exchange always available to cover licences issued? What formalities must be fulfilled for obtaining the foreign exchange?

Reply

The importation of all goods and expenditures associated with such transactions fall within the controlled foreign exchange market (in Mexico there is a dual foreign exchange market, free and controlled) and therefore there is automatic access to foreign exchange without a prior import permit being necessary for the purpose.

The credit institutions (banking authorities) automatically provide exporters, exporters' suppliers and enterprises with which the latter have equity links, with the foreign exchange to cover up to 100 per cent of the value of their future imports. For other importers, sales of advances to pay for future imports are possible only up to 20 per cent of the value of the goods to be imported, and solely to pay for machinery, tools, equipment and spare parts. In transactions involving letters of credit or documentary collection, advances up to 100 per cent may be sold.

Importers must submit to the credit institution a copy of the import application (the pedimento which is submitted to the customs for the importation of goods into the country and contains the calculation of the taxes to be paid to the Treasury) together with the copy of the corresponding commercial invoice.

In all cases, importers sign a document¹ whereby they undertake, with respect to the credit institution, to use the foreign exchange specifically for the operation in question or return any portion not so used within a period normally of 180 days.

¹ Document entitled "Undertaking for the Use or Return of Foreign Exchange".

ANNEX

List of Documents on Import Licensing Procedures*

<u>Document</u>	<u>Date of publication in the Official Gazette of Federation</u>
1. Decision subjecting the importation of the goods indicated (638 sub-divisions) to the requirement of a prior permit from the Ministry of Trade and Industrial Development.	31 October 1986
2. Codified sub-divisions for which imports are prohibited (13).	
3. Circular No. 5 Concerning Import and Export Permits - New official forms.	31 January 1985
4. Decision exempting temporary import of goods (excepting 19 sub-divisions) from the requirement of a prior permit from the Ministry of Trade and Industrial Development.	9 August 1985
5. Restricted importation of arms, ammunition, explosives and other materials of interest to national security (25 sub-divisions).	
6. Rule 8 sub-divisions (56 sub-divisions).	
7. Law Implementing Article 131 of the Political Constitution of the United Mexican States Concerning Foreign Trade.	13 January 1986
8. Regulation Governing Import and Export Permits for Goods Subject to Restriction.	14 September 1977
9. General rules relating to the operation of import permits.	17 July 1984
10. Circular No. 2 Concerning Import and Export Permits (correction of errors and omissions).	4 December 1984

* Listed in the order in which they are mentioned in the questionnaire.

<u>Document</u>	<u>Date of publication in the Official Gazette of Federation</u>
11. Circular No. 4 Concerning Import and Export Permits (urgent importation of spare parts).	4 December 1984
12. Decision exempting small-scale imports from the prior permit requirement.	17 April 1985
13. Circular No. 6 Concerning Import and Export Permits (administrative petition for review).	25 April 1985
14. Decision authorizing increases in the value, weight, volume or amount of import permits.	28 February 1986
15. Decision concerning the processing of import permit applications for agricultural and forestry products.	27 June 1986
16. Sub-divisions for imports of grains and oil seeds for mass consumption (16 sub-divisions).	27 June 1987