

GENERAL AGREEMENT ON

TARIFFS AND TRADE

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REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

European Economic Community and Member States

Supplement

Spain and Portugal

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/Add.3. The information provided updates and replaces that contained in L/5640/Add.15 for Spain and L/5640/Add.9 and Corr.1 for Portugal.

OUTLINE OF SYSTEMS

1. The import licensing system described in document L/5640/Add.15 was radically changed in 1986 after Spain joined the European Communities. This specific aspect of the Act of Accession is developed by the Ministerial Order of 21 February 1986, published in the official gazette (Boletín Oficial del Estado - BOE) of 25 February 1986 and updated by Ministerial Order of 16 March 1987, published in the BOE of 21 and 22 April 1987. The new provisions lay down the general principle of free import, and the existing restrictions are defined as exceptions to that principle. There are at present only two import systems, namely that of free trade and that of restricted trade or administrative authorization.

A. Imports under the free trade system

All imports of goods other than those for which administrative authorization is required are made under a free trade system in which import licensing is not required. Specific goods under the free trade system, according to area of origin, may exceptionally be subject to statistical monitoring prior to import. The document entitled Notification Prior to Import (NOPI) must be issued for imports of such goods. The Ministerial Order of 16 March 1987 simplifies the list of goods subject to the NOPI, according to geographical area of origin, and also indicates the statistical headings concerned for each tariff item and sub-item.

Under the free trade system, the Administration may, without having a power of refusal, require that documents be submitted prior to import in the case of agricultural and fishery products for which Community regulations so establish. These are basically the import licences, with or without the lodging of a guarantee, and also, during the transitional period established in the Act of Accession, the Supplementary Trade Mechanisms (STM) for Community goods, which are in fact issued by the authorities of the exporting country. During the transitional period the STM certificates may be required for third countries, as may the import licences for fishery products; these may constitute quantitative restrictions and are classified as coming under the administrative authorization system for imports, but such authorization is processed through a different document.

B. Imports under the administrative authorization system

The Ministerial Order of 16 March 1987 simplifies, combines and updates the lists of goods subject to administrative authorization initially contained in the Ministerial Order of 21 February 1986, according to the geographical area of origin of goods, and also indicates the statistical items affected for each tariff heading and sub-heading. A document entitled Administrative Authorization to Import (AAI) must be issued for such goods. In any event, an AAI is required for the following:

- (a) Imports of goods into the Peninsula and Balearic Islands where payment through the export of goods has been duly authorized;
- (b) Imports that do not give rise to payments;
- (c) Outward processing of crude oil.

Within the overall import system, there are specific regulations for a number of products such as agricultural and fishery, textile and iron and steel products. However, these are not exceptions to the system as they merely establish different requirements for its implementation or temporarily establish, for a specific product or area, a treatment other than that which it would usually have.

PURPOSES AND COVERAGE OF THE LICENSING

2. The provisions of the Ministerial Order of 21 February 1986 apply to imports of goods into the Peninsula and Balearic Islands. Imports into the Canaries, Ceuta and Melilla and imports from Andorra continue to be governed by the existing provisions, until such time as appropriate specific provisions are laid down. The coverage of the Ministerial Order does not extend to imports of goods that do not meet the characteristics of a commercial shipment. Imports under the temporary import system or inward processing traffic are also governed by their own provisions.

3. The principle of the EEC common commercial policy has been adopted for determining areas of origin of goods. Four basic areas are distinguished: other member States (area A); countries with specific agreements under GATT Article XXIV (area B); GATT countries and assimilated countries (area C); and State-trading countries (area D). However, strict application of the provisions of the Act of Accession have made it necessary to differentiate temporarily as follows: in zone A, Portugal (area A₂); in area B, the EFTA countries (area B₁), Mediterranean countries (area B₂), ACP (African, Caribbean and Pacific) countries (area B₃) and overseas countries and territories (area B₄); and in area D, China (area D₂) and Romania (area D₃) as independent cases. There are thus in all nine areas of origin of goods.

4. Import licensing in cases where it is required (a very small proportion of the total) under the free trade system is aimed at statistical monitoring prior to import. The purpose of import licensing under the administrative authorization system is to control imports. In practice, however, this amounts to relative control, since except for goods subject to quotas the Administrative Authorization to Import (AAI) is granted automatically.

5. The reply to this question is given under point 1. The exclusion or inclusion of any product in the list in future will be a matter for the Commission of the European Communities.

PROCEDURES

6. (a) Quantitative quotas for which the Spanish authorities are responsible are published in the official gazette (BOE).

Both Governments and export promotion bodies of exporting countries and their trade representatives have full and free access to the information published in this connection in the BOE.

The decisions of the Directorate General for Foreign Trade in which quotas are announced specify their overall amount and the areas or area of origin of the goods.

Amounts are not allocated to different countries of origin, since quotas are distributed to economic agents who act according to purely economic considerations.

6. (b) The size of import quotas is usually fixed on an annual basis, which may be divided into two, three, six or twelve periods. When the size of a quota is established on an annual basis and import licences are issued for six months, importers may extend their licences.

6. (c) Every quota announcement specifies the objective economic factors and criteria taken into account by the Directorate General for Foreign Trade for distributing the quota. These factors include: (1) the

importer's professional status; (2) objective economic data on the importing firm; and (3) setting aside of an economic percentage for new importers.

In order to determine allocation criteria, applications must be accompanied by properly documented information on (1) capital; (2) number of employees; (3) quality in which the application is made (trader, direct user, exclusive representative, etc.); (4) imports of the product, by countries, over the last three years; (5) headings under which tax is paid for carrying on a business (licencia fiscal); (6) amount paid by the company in taxes of different kinds in the previous year; and (7) any further economic information mentioned in the announcement for the quota in question.

There is no system of supervision to ensure that licences allocated are actually used.

Governments and export promotion bodies of exporting countries can learn the names of importers to whom licences have been allocated, since that information is public.

6. (d) The announcement of the import quota specifies the period for the submission of applications for licences, usually four weeks or thirty days.

6. (e) In accordance with the GATT Code on Import Licensing Procedures and the Act of Accession to the European Communities, licence applications must be processed within twenty calendar days.

6. (f) The date of opening of the period of importation always coincides with the granting of the licence. If necessary, the period of validity of licences is extended.

6. (g) To obtain a licence, the importer must apply exclusively to the administrative organ responsible for considering licence applications, namely the Directorate General of Foreign Trade of the Ministry of Trade. The Director General for Foreign Trade is also responsible for granting or refusing licences.

6. (h) If the demand for licences cannot be fully satisfied, the quota is distributed according to the criteria mentioned above in point 6(c). Usually, the chronological order of submission is not used as a criterion for allocation. In principle there is no maximum amount to be allocated per applicant, but a minimum amount is usually specified.

Applications are examined simultaneously once the period for their submission is closed.

6. (i) In cases of export restraint arrangements where exporting countries limit export permits, such as those under the MFA, an import licence is usually also required, which is granted automatically.

6. (j) Imports are not allowed solely on the basis of export permits.
6. (k) There are no products for which licences are issued on condition that goods should be exported and not sold in the domestic market.
7. (a) The AAI for imports of goods not subject to quotas are processed within twenty days. In the case of the NOPI described above under point 1, which cannot be refused, they must be processed within five working days following their submission to the proper authorities.

The checking of an NOPI cannot lead to a reduction of the amount of the product specified in the document.

7. (b) A licence can be granted immediately on request through the urgent processing system (telegraphic clearance).

Under this system, the importer may apply for telegraphic clearance by submitting the appropriate form together with the usual forms. The period of validity of the document is fifteen days, non-extendable. The Directorate General for Foreign Trade or the Territorial or Provincial Directorates of Economic Affairs and Trade send the authorization and essential information for clearance of the goods to the customs authorities.

7. (c) There are no limitations as to the period of the year during which application for licence and/or importation may be made.
7. (d) The administrative organ responsible for considering licence applications is the Directorate General for Foreign Trade of the Ministry of Trade. The Director General of Foreign Trade is responsible for granting or refusing an AAI.

When the import of specific goods calls for the submission of a document prior to importation (import licence or the like for agricultural or fishery products) provided for under the Community regulations, whether or not accompanied by the lodging of a guarantee, the Directorate General for Foreign Trade is responsible for issuing it.

8. The circumstances under which an application may be refused are:
 - (a) an uncorrected irregularity in form;
 - (b) failure to meet the established criteria;
 - (c) submission outside the established period.

When a licence application is refused, the applicant is given the reasons for the refusal. The applicant may appeal in accordance with the Law of Administrative Procedure:

- Appeal for review by an administrative organ, and appeals for judicial review of administrative decisions. In such cases all the possibilities of appeal are laid down in the Law of Administrative Procedure and its supplementary provisions.

ELIGIBILITY OF IMPORTERS TO APPLY FOR LICENCES

9. All persons, firms and institutions having legal capacity are eligible to apply for a licence under either of the two systems described above in point 1.

There is no system of registration of persons or firms permitted to engage in importation.

DOCUMENTATIONAL AND OTHER REQUIREMENTS FOR LICENCE APPLICATIONS

10. The official documents (set of forms) for processing imports under the free trade or administrative authorization systems are provided by the General Registry of the Ministry of Trade or the Territorial or Provincial Directorates of Economic Affairs and Trade. A set comprises the following number of copies:

- (a) copy for the applicant (to receive the appropriate notification);
- (b) copy for the Sub-Directorate General for Trade Data Processing (for statistical purposes);
- (c) copy for the Directorate General for Foreign Trade (to check the conditions of the operation in accordance with the criteria mentioned above);
- (d) copy for the bank or authorized financial entity (to carry out the payment operations).

11. For the clearance of the goods, the Customs require the licence holder to submit the relevant copy of the document required for the import in question.

12. The AAI and NOPI are submitted, duly completed, to the General Registry of the Ministry of Trade or of the Territorial or Provincial Directorates of Economic Affairs and Trade without any charge being made.

13. Generally speaking, the Spanish Administration requires neither deposits nor advanced payments. In accordance with Community regulations, for some goods (agricultural and fishery products) a provisional deposit is required, which is refunded once the import has been made.

CONDITIONS OF LICENSING

14. The period of validity of the Administrative Authorization to Import (AAI) is usually six months, but the Directorate General for Foreign Trade may specify some other period.

Prior import notifications (NOPI) generally have a maximum period of validity of six months.

Both the AAI and NOPI can be extended by means of the appropriate document.

15. There is no penalty for the non-utilization of all or part of an AAI or NOPI.

16. In no case can the holder of an AAI or NOPI can be changed. If an AAI has been granted and, within its period of validity, changes occur in the circumstances of the operation, the Director General for Foreign Trade may authorize the rectification of the AAI, which the importer must apply for by means of the appropriate official forms. As a general rule such rectifications are limited to three. The particulars given in the NOPI may be amended, but the importer has to submit a new NOPI.

17. Normally, there are no other conditions attached to the issue of a licence. In the case of products subject to quantitative restrictions, the quota announcement indicates the additional conditions described in the answer to question 6.

OTHER PROCEDURAL REQUIREMENTS

18. Imports are not usually subject to any other administrative procedures apart from import licensing and similar administrative procedures.

19. The banking authorities automatically provide the necessary foreign exchange for the payment of the goods to be imported.

When a licence is required for the import of the goods, it is then necessary to be in possession of such a licence in order to be able to obtain the foreign exchange.

The formalities which must be fulfilled for obtaining the foreign exchange are the normal ones for the banking operation concerned.

REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

PORTUGAL

Outline of systems

1. Imports are subject to the following systems:
 - (a) Prior registration: through automatically-issued import declarations¹, exclusively for statistical purposes;
 - (b) Import licences²: issued for products subject to restrictive treatment (quotas);
 - (c) Import certificates³: issued for agricultural products included in market organization.

All these documents are issued by the General Directorate for Foreign Trade. In the autonomous regions of Madeira and the Azores, they are issued by the Regional Secretariats for Trade and Industry and Regional Secretariat for Trade and Supplies, respectively.

Imports not exceeding Esc 100,000 in value are exempted from prior registration.

Purposes and coverage of the licensing

2. The licensing system in force and the products covered are described in section 1.
3. The system applies to all products and all origins.
4. Import declarations do not restrict the quantity or value of imports. Quantities and values may be restricted by the licences used for products subject to quantitative restrictions.
5. The legal basis for the declarations, licences and certificates is the

¹Copy attached (Annex I)

²Copy attached (Annex II)

³Copy attached (Annex III)

Act of Accession of Portugal to the Communities, and Decree Law No. 524/85, of 31 December.¹

The use of licences is, in general, compulsory.

The products covered by the licensing depend on national and Community provisions.

The Government may alter the system, in some cases without having to obtain legislative approval.

Procedures

6. When restrictions exist, they apply to all countries:

- (a) Information on quota allocation is published in the Official Journal (Diario de la República) and two daily newspapers. The amount of quotas is published. The maximum amount allocated is immediately communicated to each importer.
- (b) The size of quotas is determined on a yearly basis, and they may be allocated on an annual, six-monthly or quarterly basis. If the quota is fixed on an annual basis, licences may be issued throughout the year.
- (c) There is no discrimination between economic agents. Businessmen or traders may equally apply for licences.

Deposits (agricultural products) ensure that licences or certificates are actually used.

Amounts not used during a given period are included in the following period.

Due to statistical and commercial confidentiality, the names of importers are not communicated.

- (d) The period for submission of licence applications (quotas) varies between five, ten, fifteen or twenty-five days.
- (e) The minimum period of validity of documents is three months, and the maximum one year.

¹A copy of this Decree-Law (in Portuguese language) is kept in the secretariat for reference (Office 3063).

- (f) The general length of licences is three months.
 - (g) Only one body considers applications and issues of licences.
 - (h) There are various criteria for the distribution of licences:
 - by chronological order of application;
 - on the basis of imports in previous years;
 - in specific cases (fish, for example) a maximum amount to be allocated to each applicant is determined;
 - normally, 10 per cent of quotas are reserved for new importers;
 - applications are normally examined simultaneously.
 - (i) In the event of export restraint arrangements, import declarations or certificates are required in the case of agricultural products.
 - (j) In cases where imports are allowed on the basis of export permits, Portugal will be informed of them through Community regulations and decisions.
 - (k) There are no products for which licences are only issued on condition that goods are exported.
7. (a) When there are no quantitative restrictions, dates are not fixed in advance for the submission of applications.
- It is always possible to obtain licences within a shorter time-limit, and even on the same day in urgent cases.
- (b) A licence can be granted immediately.
 - (c) No period of the year is established for the importation of specific products not subject to quantitative restrictions.
 - (d) A single administrative organ deals with the issuing of licences.
8. A licence may be refused only if it does not comply with existing provisions.

The importer is informed of the reasons for the refusal.

The importer has the right to appeal to the body which failed to issue the licence or to the Minister concerned.

Eligibility of importers to apply for a licence

9. All persons, firms and institutions are eligible to apply for a licence:

- (a) in the case of quantitative restrictions;
- (b) in the case where there are no restrictions;

provided they are duly registered in the National Register of Collective Entities.

- There is no registration of firms permitted to engage in importation.

Documentational and other requirements for application for a licence

10. The particulars that must be given in applications are clear from the forms.

An importer whose affairs are in order does not need to supply any other document with the licence, except for guarantees in the case of products for which they are required.

11. Various documents are required upon actual importation: invoice, bill of lading, etc.

12. No fee is paid for the issue of the documents.

13. The issue of a licence is not subject to the payment of any sum.

Conditions of licensing

14. The normal period of validity of a licence is three months. It may be extended. How? By replacing it with a new licence.

15. In the case of a product for which a deposit is required, failure to import entails loss of the deposit.

16. As a general rule, licences are not transferable between importers.

17. (a) For products subject to quantitative restriction, licences may be extended if their validity expires prior to the period to which the quota refers.

- (b) Import declarations and certificates may also be extended or replaced.

Other procedural requirements

18. There are no other prior procedures.

19. The banking authorities authorize the use of foreign exchange against proof of importation or the signed contract.

It is not necessary to apply for a licence in order to obtain the foreign exchange.

Foreign exchange is always available to cover the value of the import.

Evidence of actual importation or a signed contract must be in order to obtain the foreign exchange.

1 REMETENTE (firma ou denominação)

Sede ou domicílio

2 DATA PREVISTA PARA A IMPORTAÇÃO

3 ESTÂNCIA ADUANEIRA DE UTILIZAÇÃO

4 PAÍS DE ORIGEM

5 PAÍS DE PRIMEIRA PROCEDÊNCIA

6 MOEDA UTILIZADA

7 REQUERENTE (firma ou denominação)

Sede ou domicílio

Número de pessoa colectiva

8 País de origem do organismo emissor

Número

Organismo

9 DESIGNAÇÃO DO PRODUTO

Designação do produto				Peso líquido em kg	Valor CIF
Descrição	Quantidade	Unidade	Valor		

10 DESIGNAÇÃO DO PRODUTO

Designação do produto				Peso líquido em kg	Valor CIF
Descrição	Quantidade	Unidade	Valor		

11 DESIGNAÇÃO DO PRODUTO

Designação do produto				Peso líquido em kg	Valor CIF
Descrição	Quantidade	Unidade	Valor		

12 DESIGNAÇÃO DO PRODUTO

Designação do produto				Peso líquido em kg	Valor CIF
Descrição	Quantidade	Unidade	Valor		

13 OBSERVAÇÕES

14

Assinatura e carimbo

15 CONDIÇÕES VINCULATIVAS ESPECIAIS

16 VALIDADE DE DESALFANDEGAMENTO

17

A presente Declaração foi emitida nos termos da legislação em vigor

DECLARAÇÃO PARA O REQUERENTE

1 REMETENTE (firma ou denominação)

Sede ou domicílio

2 DATA PREVISTA PARA A IMPORTAÇÃO

3 ESTÂNCIA ADUANEIRA DE UTILIZAÇÃO

4 PAIS DE ORIGEM

Código

5 PAIS DE PRIMEIRA PROCEDÊNCIA

Código

6 MOEDA UTILIZADA

Código

7 REQUERENTE (firma ou denominação)

Sede ou domicilio

Telefone

Numero de pessoa colectiva

8 A preencher pelo organismo emissor

Data de emissão

Numero de emissão

Organismo

EXEMPLO PARA O REQUERENTE
 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17.

9 DESIGNAÇÃO DO PRODUTO

| Classificação do produto | | Unidades suplementares NCM | | Peso líquido em quilos | Valor CIF |
|--------------------------|-----------|----------------------------|-----------|------------------------|-----------|
| Código NCM | Descrição | Código | Descrição | | |
| | | | | | |

10 Q. ANTIDADE EM UNIDADE SUPLEMENTAR NCM E EQUIVALENTE

11 PREÇO UNITÁRIO EM DOLLAR E EQUIVALENTE

12 PREÇO UNITÁRIO EM EURO E EQUIVALENTE

13 PREÇO UNITÁRIO EM ESCUDO E EQUIVALENTE

14

Declaro que sou titular da responsabilidade desta prova de pagamento apresentada, e que a mesma se encontra em dia e termo, como previsto no Regulamento da União Europeia, e que não tenho qualquer pendência, nem alguma se encontra em curso, relativamente a esta prova de pagamento, regularizada quanto ao pagamento de impostos e demais obrigações, despendidamente quanto a Seguradora fiscal.

Assinado em _____ de _____ de 19__

(ASSINATURA E CEBRISTOS)

15 CONDIÇÕES VINCULATIVAS ESPECIAIS

Declaro que sou titular da responsabilidade desta prova de pagamento, e que a mesma se encontra em dia e termo, como previsto no Regulamento da União Europeia, e que não tenho qualquer pendência, nem alguma se encontra em curso, relativamente a esta prova de pagamento, regularizada quanto ao pagamento de impostos e demais obrigações, despendidamente quanto a Seguradora fiscal.

16 VALIDADE DE DESALFANDAMENTO

17 A presente Licença foi emitida nos termos da legislação em vigor

| | | | | | |
|--|-------------------------------------|---|---|--|-------------------------------------|
| CERTIFICAT D'IMPORTATION OU DE PRÉFIXATION
EINFUHRLIZENZ ODER VORAUSFESTSETZUNGSBESCHEINIGUNG
IMPORT LICENCE OR ADVANCE FIXING CERTIFICATE
CERTIFICADO DE IMPORTACIÓN O DE FIJACIÓN ANTECIPADA
IMPORTLICENS ELLER-FORUDFASTSÆTTELSÆTTEST
ΠΙΣΤΟΠΟΙΗΤΙΚΟ ΕΙΣΑΓΩΓΗΣ Ή ΠΡΟΚΑΘΟΡΙΣΜΟΥ
TITOLO D'IMPORTAZIONE O DI PREFISSAZIONE
INVOER- OF VOORFIXATIECERTIFICAAT
CERTIFICADO DE IMPORTAÇÃO OU DE PREFIXAÇÃO | | | | EF EG EK EC CE | |
| 1 Selo branco e perfuração do organismo emissor (1): | | | | | |
| P | A 088251 | EXEMPLAR PARA O TITULAR | 1 | 2 | |
| 3 a) Organismo emissor do certificado (nome e endereço) | | | 4 a) Titular (nome, endereço completo e Estado membro): | | |
| 3 b) Organismo emissor do extracto (nome e endereço) | | | 4 b) Direitos transmitidos a:

a partir de | | |
| 5 PRODUTO A IMPORTAR | | | | | |
| 6 Denominação comercial: | | 7 Designação segundo a nomenclatura da pauta aduaneira comum. | | | |
| | | 8 Número da Pauta Aduaneira Comum: | | | |
| | | 9 Número da estatística (2) | | | |
| | | 10 Peso líquido, volume, etc. (3) (em algarismos) | | | |
| 11 Peso líquido, volume, etc. (3) (por extenso) | | 13 País de proveniência obrigatório. SIM <input type="checkbox"/> NÃO <input type="checkbox"/> | | | |
| 12 Menções especiais | | 14 País de origem obrigatório. SIM <input type="checkbox"/> NÃO <input type="checkbox"/> | | | |
| | | 15 Fixação antecipada solicitada. SIM <input type="checkbox"/> NÃO <input type="checkbox"/> | | | |
| | | 16 Montante total da caução em moeda nacional | | | |
| 17 DIREITO REVELADOR FIXADO ANTECIPADAMENTE EM POR (sem algarismos) (unidade) | | | | | |
| 18 Ano e mês | 19 Taxa total em moeda nacional (4) | 18 Ano e mês | 19 Taxa total em moeda nacional (4) | 18 Ano e mês | 19 Taxa total em moeda nacional (4) |
| | | | | | |
| 20 a) Condições especiais (4) | | | | 20 b) Data de apresentação do pedido do certificado original | |
| 21 Último dia de validade | | | | 22 Tolerância % a mais | |
| 23 Validade prorrogada até inclusive para (1) | | | | 25 Passado em sob o n.º em | |
| Em em | | | | 26 Carimbo e assinatura do organismo emissor. | |
| 24 Carimbo e assinatura do organismo emissor do certificado | | | | | |

1) A preencher se a casa 26 não for utilizada.
 2) A preencher segundo a regulamentação do Estado membro de emissão; esta menção não afecta a validade do certificado.
 3) Com indicação da unidade.
 4) Sem prejuízo da aplicação das disposições relativas à taxa de conversão aplicável de uma moeda para as do acto de adesão.
 5) Peso líquido, volume, etc., com indicação da unidade.